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Wednesday
February 17, 1999

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: February 23, 1999 at 9:00 am.

WHERE: Office of the Federal Register
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800 North Capitol Street, NW.
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(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 64, No. 31
Wednesday, February 17, 1999

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–27–AD; Amendment 39–11037; AD 99–04–13]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 214ST Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Bell Helicopter Textron, Inc. (BHTI) Model 214ST helicopters. This action requires a reduction of the never-exceed velocity (Vne) limitation until an inspection of the tail rotor yoke (yoke) assembly for fatigue damage and installation of a redesigned yoke flapping stop are accomplished. Recurring periodic and special inspections to detect occurrences of yoke overload are also required. This amendment is prompted by reports of inflight failures of yokes installed on civilian and military helicopters of similar type design. The actions specified in this AD are intended to prevent fatigue failure of the yoke that could result in loss of the tail rotor and subsequent loss of control of the helicopter.

DATES: Effective March 4, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 4, 1999.

Comments for inclusion in the Rules Docket must be received on or before April 19, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–27–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The service information referenced in this AD may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101, telephone (817) 280–3391, fax (817) 280–6466. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Edmiston, Aerospace Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5158, fax (817) 222–5783.

SUPPLEMENTARY INFORMATION: This amendment adopts a new AD that is applicable to BHTI Model 214ST helicopters. This action requires, before further flight, reviewing the historical records for any incidents that may have imposed greater than normal bending loads on the tail rotor yoke, installing a placard on the instrument panel with a reduced airspeed limitation, and inserting the limitation into the Limitations section of the Rotorcraft Flight Manual (RFM). This action also requires, within 180 days, replacing the yoke assembly with a zero-hours TIS airworthy yoke assembly, or one that has passed an x-ray diffraction inspection. A frangible tail rotor flapping stop/yield indicator, P/N 214–011–809–109, must also be installed. Further, this AD requires a repetitive 25 hours time-in-service (TIS) inspection to detect tail rotor flapping stop damage due to a hard landing, sudden stoppage, or miscellaneous power on/off incidents, and an inspection after each incident in which damage due to a hard landing, sudden stoppage, or miscellaneous power on/off incidents may have occurred. This amendment is prompted by reports of inflight failures of yokes installed on civilian and military helicopters of similar type design. The actions specified in this AD are intended to prevent fatigue failure of the yoke that could result in loss of the tail rotor and subsequent loss of control of the helicopter.

The FAA has reviewed Bell Helicopter Textron, Inc. Alert Service Bulletin No. 214ST–96–75, dated August 26, 1996, which specifies an immediate, temporary reduction in the maximum airspeed, installing a cockpit placard for this limitation, and incorporating a temporary RFM supplement until the yoke historical records are researched for previous damage history; until an x-ray diffraction inspection is performed on the yoke to detect fatigue damage; and until a frangible tail rotor flapping stop/yield indicator, P/N 214–011–809–109, is installed. A repetitive 25 hour TIS inspection to detect damaging tail rotor flapping stop contact due to a hard landing, sudden stoppage, or miscellaneous power on/off incidents has been added.

Since an unsafe condition has been identified that is likely to exist or develop on other BHTI Model 214ST helicopters of the same type design, this AD is being issued to prevent fatigue failure of the yoke due to external bending forces, which could result in failure of the yoke, loss of control of the tail rotor, and subsequent loss of control of the helicopter. The actions are required to be accomplished in accordance with the service bulletin described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, the actions stated in the AD are required prior to further flight, and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

The FAA estimates that 14 helicopters will be affected by this proposed AD, that it will take approximately 9 work hours to accomplish the inspections and installations, and that the average labor rate is $60 per work hour. Required parts will cost approximately $21,844 for the yoke, and $936 for the flapping stop, per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $326,480 to replace the yoke and flapping stop in the entire fleet.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–27–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 99–04–13 Bell Helicopter Textron, Inc.: Amendment 39–11037. Docket No. 98–SW–27–AD.

Applicability: Model 214ST helicopters, serial numbers 28101 and higher, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue failure of the tail rotor yoke (yoke) that could result in loss of the tail rotor and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, review the historical records of the yoke assembly, part number (P/N) 214–011–802–105 or 214–011–802–111, for any recorded static or dynamic incidents that could have imposed a bending load on the yoke, but did not require yoke assembly replacement; for example, an incident in which a damaged tail rotor blade was replaced due to a blade strike. If such a history exists, replace the yoke assembly with an airworthy yoke assembly.

(b) Before further flight, unless paragraph (c) of this AD has been accomplished previously:

(1) Install a Never Exceed Velocity (Vne) red line at 145 knots indicated airspeed (KIAS) on the pilot and copilot airspeed indicators using red tape or paint, and a slippage indicator on the instrument case and glass.

(2) Install a placard made of material that is not easily erased, disfigured, or obscured on the instrument panel in clear view of the pilot and copilot: ''Observe temporary Maximum Never Exceed (Vne) airspeed red line (marked at 145 knots indicated airspeed (KIAS)). Basic Vne is 15 KIAS less than that determined by the Air Data Computer (ADC) but never less than 70 KIAS.''

(3) Insert the Bell Helicopter Textron 214ST Temporary Revision for Airspeed Restriction, dated August 16, 1996, which is attached to Bell Helicopter Textron Alert Service Bulletin No. 214ST–96–75, dated August 26, 1996 (ASB) into the Limitations section of the Model 214ST Rotorcraft Flight Manual (RFM).

(c) Within 180 calendar days after the effective date of this AD:

(1) Remove yoke assembly, P/N 214–011–802–105 or 214–011–802–111, and replace it with an airworthy yoke assembly, P/N 214–011–802–105 or 214–011–802–111, with zero hours time-in-service (TIS), or an airworthy yoke (regardless of TIS) that has passed a one-time x-ray diffraction inspection in accordance with the ASB.

(2) Install an airworthy tail rotor flapping stop, P/N 214–011–809–109.

(3) After the requirements of paragraphs (c)(1) and (c)(2) of this AD are accomplished, remove the 145 KIAS redline from the pilot and copilot airspeed indicators, remove the Vne airspeed restriction placard, and remove the Bell Helicopter Textron 214ST Temporary Revision for Airspeed Restriction, dated August 16, 1996, from the RFM.

(d) After accomplishing paragraph (c) of this AD, inspect the yoke assembly and tail rotor flapping stop in accordance with Part III, Recurring 25 Hour Inspection and Conditional Inspection Requirement, of the ASB:

—at intervals not to exceed 25 hours TIS; and

—before further flight after each incident in which there could have been imposed a bending load on the yoke as referenced in paragraph (a).

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Certification Office, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(g) The actions shall be done in accordance with Bell Helicopter Textron Alert Service Bulletin No. 214ST–96–75, dated August 26, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101, telephone (817) 280–3391, fax (817) 280–6466. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on March 4, 1999.

Issued in Fort Worth, Texas, on February 5, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–3590 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–57–AD; Amendment 39–11045; AD 99–04–20]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Model A109K2 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Agusta S.p.A. Model A109K2 helicopters. This action requires replacing a certain Breeze-Eastern rescue hoist (rescue hoist) with a different part-numbered airworthy rescue hoist. This amendment is prompted by an incident in which a rescue hoist cable broke due to cable damage, resulting in one fatality. The actions specified in this AD are intended to prevent the breaking of the rescue hoist cable, personal injury, or entanglement of the rescue hoist cable in the helicopter's main or tail rotor blades, and subsequent loss of control of the helicopter.

DATES: Effective March 4, 1999.

Comments for inclusion in the Rules Docket must be received on or before March 19, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 97–SW–57–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Carroll Wright, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5120, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: The Registro Aeronautico Italiano (RAI), which is the airworthiness authority for Italy, recently notified the FAA that an unsafe condition may exist on Agusta S.p.A. Model A109K2 helicopters. The RAI advises that a fatal accident occurred as a result of a malfunction of a rescue hoist. The rescue hoist cable broke, resulting in a fatality. Based on the result of the investigation of the accident, the FAA has determined that AD action is necessary to require replacement of the hoist.

Agusta S.p.A. has issued Agusta Alert Bollettino Tecnico (Technical Bulletin) No. 109K–20, Rev. A, dated March 30, 1998, which specifies inspecting the rescue hoist, part number (P/N) BL29700 (all dash numbers). The RAI classified this technical bulletin as mandatory and issued AD 97–229, dated August 8, 1997, AD 96–070, dated April 17, 1996, AD 97–220, dated July 30, 1997, AD 98–051, dated February 20, 1998, AD 98–125, dated April 7, 1998, and AD 98–284, dated August 11, 1998, in order to assure the continued airworthiness of rescue hoist, P/N BL29700 (all dash numbers).

This helicopter model is manufactured in Italy and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RAI has kept the FAA informed of the situation described above. The FAA has examined the findings of the RAI, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Agusta S.p.A. Model A109K2 helicopters of the same type design registered in the United States, this AD is being issued to prevent the breaking of the rescue hoist cable, personal injury, or entanglement of the rescue hoist cable in the helicopter's main or tail rotor blades, and subsequent loss of control of the helicopter. This AD requires replacement of the rescue hoist, P/N BL29700 (all dash numbers), with an airworthy hoist, P/N 109–0900–62.

None of the Model A109K2 helicopters affected by this action are on the U.S. Register. All helicopters included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject helicopters are imported and placed on the U.S. Register in the future.

Since this AD action does not affect any helicopter that is currently on the U.S. Register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Should an affected helicopter be imported and placed on the U.S. Register, it will require approximately 2.0 work hours per helicopter to replace the hoist. The average labor rate is $60 per work hour. Required parts will cost approximately $195, but the manufacturer has stated that any required parts will be provided to helicopter operators at no cost. Based on these figures, the cost impact of this AD will be $120 per helicopter.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD

action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–SW–57–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that notice and prior public comment are unnecessary in promulgating this regulation and therefore, it can be issued immediately to correct an unsafe condition in aircraft since none of these model helicopters are registered in the United States, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 99–04–20 Agusta S.p.A.: Amendment 39–11045. Docket No. 97–SW–57–AD.

Applicability: Model A109K2 helicopters, with Breeze-Eastern rescue hoist, part number (P/N) BL29700 (all dash numbers), installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent breaking of the Breeze-Eastern rescue hoist (hoist) cable, personal injury, or entanglement of the hoist cable in the helicopter's main or tail rotor blades, and subsequent loss of control of the helicopter, accomplish the following:

(a) Replace the hoist, P/N BL29700 (all dash numbers), with an airworthy hoist, P/N 109–0900–62, on or before March 31, 1999. This replacement is considered a terminating action for the requirements of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished, provided the rescue hoist is not used.

(d) This amendment becomes effective on March 4, 1999.

Note 3: The subject of this AD is addressed in Registro Aeronautico Italiano (Italy) AD 97–229, dated August 8, 1997, AD 96–070, dated April 17, 1996, AD 97–220, dated July 30, 1997, AD 98–051, dated February 20, 1998, AD 98–125, dated April 7, 1998, and AD 98–284, dated August 11, 1998.

Issued in Fort Worth, Texas, on February 9, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–3724 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–16–AD; Amendment 39–11047; AD 99–04–22]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727, 727–100, 727–200, 727C, 727–100C, and 727–200F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Boeing Model 727, 727–100, 727–200, 727C, 727–100C, and 727–200F series airplanes. This action requires repetitive inspections to detect cracking of the lower skin panel at the lower row of fasteners in certain lap joints of the fuselage, and repair, if necessary. This amendment also provides for optional terminating action for certain repetitive inspections. This amendment is prompted by a report of fatigue cracking in the lower skin panel at the lower row of fasteners of the fuselage lap joints. The actions specified in this AD are intended to detect and correct such fatigue cracking, which could result in sudden fracture and failure of the lower skin lap joints, and rapid decompression of the airplane.

DATES: Effective March 4, 1999.

The incorporation by reference of certain publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of June 23, 1998 (63 FR 27455, May 19, 1998).

Comments for inclusion in the Rules Docket must be received on or before April 19, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–16–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in the rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Walt Sippel, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2774; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating that a 20-inch crack was detected in the lower skin panel of the fuselage on a Boeing Model 727 series airplane, between body station (BS) 540 and BS 560 common to stringer S26L, at the lower row of fasteners in the lap joint. This type of cracking was determined to be the result of multiple site fatigue damage in the lap joint lower fastener row.

Further investigation revealed multiple site fatigue damage (approximately 80 cracks) in the stringer S–4R lap joint of the lower fastener row of the lower skin panel. The lower skin is 0.040-inch thick at both of these lap joint locations. Three out of the four airplanes inspected were found with such damage at the stringer S–4R lap joint; one of the airplanes had accumulated approximately 55,430 total flight cycles. Preliminary results of the investigation revealed that the cracking had initiated at approximately 40,000 total flight cycles.

Such fatigue cracking, if not detected and corrected, could result in sudden fracture and failure of the lower skin lap joints, and rapid decompression of the airplane.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to detect and correct fatigue cracking of the lower skin at the lower row of fasteners in certain lap joints of the fuselage. This AD requires repetitive inspections to detect cracking of the lower skin panel at the lower row of fasteners in certain lap joints of the fuselage, and repair, if necessary. This AD also provides for optional terminating action for certain repetitive inspections.

In the context of other AD's affecting lap joints, the FAA has become aware that, in many cases, operators have accomplished repairs or alterations to the lap joints that make it impossible to accomplish inspections required by the AD's. Yet, in some cases, the operators have not obtained approval for alternative methods of compliance (AMOC) for those inspections. Therefore, the FAA has added a paragraph to this AD that requires that, before such a repair or alteration can be accomplished, approval for an AMOC must be obtained.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire.

Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ''**ADDRESSES**.'' All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–16–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99–04–22 Boeing: Amendment 39–11047. Docket 99–NM–16–AD.

Applicability: All Model 727, 727–100, 727–200, 727C, 727–100C, and 727–200F series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking in the lower skin panel at the lower row of fasteners of the fuselage lap joints, which could result in sudden fracture and failure of the lap joints, and rapid decompression of the airplane; accomplish the following:

(a) Except as provided by paragraph (e) of this AD: At the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD, perform an external detailed visual inspection to detect cracking in the lower skin panels at the lower row of fasteners of the fuselage lap joints at the following associated body stations (BS). Thereafter, repeat the inspection at intervals not to exceed 50 flight cycles until the requirements of either paragraph (c) or (d) of this AD are accomplished.

TABLE 1.

Model	Stringer	Body station
727 series airplanes and 727–100 series airplanes	S–4L, S–4R	259 through 700, and 1009 through 1183.
	S–10L	259 through 310.
	S–10R	259 through 360.
	S–19L	259 through 660.
	S–19R	259 through 500.
	S–24L, S–24R	259 through 360.
	S–26L	360 through 680.
	S–26R	360 through 500, and 601 through 680.
727–200 series airplanes	S–4L, S–4R	259 through 681; 686 through 720E; and 1009 through 1183.
	S–10L	259 through 310.
	S–10R	259 through 360.
	S–19L, S19R	259 through 360.
	S–24L, S–24R	259 through 360.
	S–26L	360 through 644.
	S–26R	360 through 481, and 486 through 514.
727C series airplanes, 727–100C series airplanes	S–4L	259 through 441, and 1080 through 1183.
	S–4R	259 through 619, and 1080 through 1183.
	S–10L	259 through 310.
	S–10R	259 through 360.
	S–19L	259 through 441.
	S–19R	259 through 500.
	S–24L, S–24R	259 through 360.
	S–26L	360 through 680.
	S–26R	360 through 500, and 601 through 680.
727–200F series airplanes	S–4L	259 through 441, and 1009 through 1183.
	S–4R	259 through 481, and 1009 through 1183.
	S–10L	259 through 310.
	S–10R	259 through 360.
	S–19L	259 through 360.
	S–19R	259 through 520.
	S–26L	486 through 644.
	S–26R	486 through 514.

(1) Inspect prior to the accumulation of 40,000 total flight cycles.

(2) Inspect within 50 flight cycles or 15 days after the effective date of this AD, whichever occurs first.

(b) After the effective date of this AD, no person may accomplish a repair or alteration that would interfere with the accomplishment of the inspection required by paragraph (a) of this AD (e.g., covering an affected lap joint), unless an alternative method of compliance for that inspection has been approved in accordance with the provisions of paragraph (g) of this AD.

(c) At the latest of the times specified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, perform a low frequency eddy current (LFEC) inspection to detect cracking in the lower skin panels at the lower row of fasteners of the fuselage lap joints, at the associated body stations specified in Table 1. of paragraph (a) of this AD; in accordance with Items F–43 and F–43A of Boeing Document No. D6–48040–1, Volumes 1 and 2, ''Supplemental Structural Inspection Document'' (SSID), Revision H, dated June 1994 (hereinafter referred to as the ''Boeing Document''). Thereafter, repeat the LFEC inspection at intervals not to exceed 600 flight cycles. Accomplishment of the LFEC inspection constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

(1) Inspect prior to the accumulation of 40,000 total flight cycles.

(2) Inspect within 300 flight cycles or 60 days after the effective date of this AD, whichever occurs first.

(3) Inspect within 600 flight cycles after accomplishing the same inspection in accordance with AD 98–11–03, amendment 39–10530.

Note 2: The provisions of paragraph 1. of Item F–43A of the Boeing Document, which give credit for performing the modification or repair specified in Figure 4 of Boeing Service Bulletin 727–53–72, Revision 5, dated June 1, 1989, do not apply to this AD. All lap joints specified in this AD are to be inspected whether or not they have been modified or repaired previously in accordance with that service bulletin.

Note 3: Accomplishment of the initial LFEC inspection prior to the effective date of this AD in accordance with the initial LFEC inspection specified in the Boeing Document, is considered acceptable for compliance with the initial inspection specified in paragraph (c) of this AD.

(d) Accomplishment of internal detailed visual and high frequency eddy current (HFEC) inspections to detect cracking in the lower skin panels at the lower row of fasteners of the fuselage lap joints, at the associated body stations specified in Table 1. of paragraph (a) of this AD; in accordance with the Boeing Document, constitutes terminating action for the repetitive inspection requirements of paragraphs (a) and (c) of this AD, provided that the internal detailed visual and HFEC inspections are repeated thereafter at intervals not to exceed 7,000 flight cycles.

Note 4: Accomplishment of the internal HFEC inspection prior to the effective date of this AD in accordance with the HFEC inspection specified in the Boeing Document is considered acceptable for compliance with the initial HFEC inspection specified in paragraph (d) of this AD, provided that the repetitive inspections in paragraph (d) of this AD are accomplished as specified.

(e) Airplanes on which the inspection required by paragraph (c) or (d) of this AD is performed within the compliance time specified in paragraph (a) of this AD are not required to accomplish the inspection required by paragraph (a).

(f) If any crack is detected during any inspection required by this AD, prior to further flight, perform internal detailed visual and HFEC inspections to detect additional cracking in the entire lap joint of the lower skin panel where the crack was found, in accordance with the Boeing Document, and repair any crack detected in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(i) The inspections shall be done in accordance with Boeing Document No. D6–48040–1, Volumes 1 and 2, ''Supplemental Structural Inspection Document'' (SSID), Revision H, dated June 1994, which contains the following list of effective pages:

Page No. shown on page	Revision level shown on page
List of Active Pages: Pages 1 thru 17.2	H

(**Note:** The issue date of Revision H is indicated only on the title page; no other page of the document is dated.) This incorporation by reference was approved previously by the Director of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, as of June 23, 1998 (63 FR 27455, May 19, 1998). Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on March 4, 1999.

Issued in Renton, Washington, on February 10, 1999.

Ronald T. Wojnar,

Acting Manager,

Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–3750 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 98–AWP–27]

RIN 2120–AA66

Revocation and Establishment of Restricted Areas; NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes Restricted Areas R–4803N and R–4803S, and establishes R–4803, Fallon, Nevada (NV). The FAA is taking this action in response to a request from the United States Navy (USN) to eliminate R–4803N, and to redefine the arc of R–4803S as a complete circle and rename it R–4803. This action reduces restricted airspace at Fallon, NV, and improves access to Fallon Municipal Airport, NV.

EFFECTIVE DATE: 0901 UTC, May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

Residential development in the vicinity of R–4803N and R–4803S has led to an increasing number of noise complaints and perceived safety concerns by the local community. In 1997, USN personnel at Fallon Naval Air Station began a comprehensive review of restricted area operations in the Fallon area. As a result of the review, public meetings, over-flight tests, and a survey of local residents, the USN requested the FAA disestablish the restricted airspace that overlies what were formerly farmlands bordering the city of Fallon, NV. This is an administrative change which reduces the size of the restricted airspace and eliminates a portion of restricted airspace no longer needed by the USN. It does not alter the type of activities conducted within the remaining restricted airspace.

The Rule

This amendment to 14 CFR part 73 revokes Restricted Areas R–4803N and R–4803S, and establishes R–4803, Fallon, NV. The FAA is taking this action in response to a request from the USN to eliminate R–4803N and redefine the arc R–4803S as a complete circle and rename it R–4803. This action reduces restricted airspace at Fallon, NV, and improves access to Fallon Municipal Airport, NV. As the solicitation of comments would not offer any meaningful right or benefit to any segment of the public, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this action only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This action reduces the size of the restricted airspace. In accordance with FAA Order 1050.1D, ''Polices and Procedures for Considering Environmental Impacts,'' this action is categorically excluded.

List of Subjects in 14 CFR Part 73

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.48 [Amended]

2. § 73.48 is amended as follows:

* * * * *

R–4803N Fallon, NV [Revoked]

R–4803S Fallon, NV [Revoked]

R–4803 Fallon, NV [New]

Boundaries: A 3–NM radius circle centered at lat. 39°20′40″ N., long. 118°52′19″ W.
Designated Altitudes. Surface to but not including FL 180.
Time of designation. 0715 to 2330 daily.
Controlling agency. FAA Oakland ARTCC.
Using agency. Naval Strike and Air Warfare Center, Fallon, NV.

* * * * *

Issued in Washington, DC, on February 10, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–3803 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29465; Amdt. No. 1916]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAP's, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAP's. The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 14 CFR 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publicaiton in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with a Global Positioning System (GPS) and or Flight Management System (FMS) equipment. In consideration of the above, the applicable SIAP's will be altered to include ''or GPS or FMS'' in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS or FMS procedure is developed, the procedure title will be altered to remove ''or GPS or FMS'' from these non-localized, non-precision instrument approach procedure titles.)

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) equipped aircraft can be flown by aircraft utilizing various other tyupes of navigational equipment. In consideration of the above, those SIAP's currently designated as ''RNAV'' will be redesignated as ''VOR/DME RNAV''

without otherwise reviewing or modifying the SIAP's.

Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on February 5, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113–40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

2. Amend 97.23, 97.27, 97.33 and 97.35, as appropriate, by adding, revising, or removing the following SIAP's, effective at 0901 UTC on the dates specified:

** * * Effective 25 March 1999*

Tanana, AK, Ralph M. Calhoun Memorial, VOR or GPS–A, Amdt 6 Cancelled
Tanana, AK, Ralph M. Calhoun Memorial, VOR A, Amdt 6
Tanana, AK, Ralph M. Calhoun Memorial, NDB or GPS–B, Amdt 3 Cancelled
Tanana, AK, Ralph M. Calhoun Memorial, NDB B, Amdt 3
Bessemer, AL, Bessemer, VOR OR GPS RWY 5, Amdt 5 Cancelled
Bessemer, AL, Bessemer, VOR RWY 5, Amdt 5
Stockton, CA, Stockton Metropolitan, VOR OR GPS RWY 29R, Amdt 18 Cancelled
Stockton, CA, Stockton Metropolitan, VOR RWY 29R, Amdt 18
Newton, IA, Newton Muni, VOR OR GPS RWY 14, Amdt 9 Cancelled
Newton, IA, Newton Muni, VOR RWY 14, Amdt 9
Newton, IA, Newton Muni, VOR OR GPS RWY 32, Amdt 9 Cancelled
Newton, IA, Newton Muni, VOR RWY 32, Amdt 9
Reading, PA, Reading Regional/Carl A. Spaatz Field, VOR/DME RNAV OR GPS RWY 13, Amdt 7 Cancelled
Reading, PA, Reading Regional/Carl A. Spaatz Field, VOR/DME RNAV RWY 13, Amdt 7
Reading, PA, Reading Regional/ Carl A. Spaatz Field, VOR/DME RNAV OR GPS RWY 18, Amdt 5 Cancelled
Reading, PA, Reading Regional/Carl A. Spaatz Field, VOR/DME RNAV RWY 18, Amdt 5
North Myrtle Beach, SC, Grand Strand, VOR OR GPS RWY 5, Amdt 20 Cancelled
North Myrtle Beach, SC, Grand Strand, VOR RWY 5, Amdt 20
North Myrtle Beach, SC, Grand Strand, VOR OR GPS RWY 23, Amdt 19 Cancelled
North Myrtle Beach, SC, Grand Strand, VOR RWY 23, Amdt 19

[FR Doc. 99–3807 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29464; Amdt. No. 1915]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on February 5, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
01/18/99	NC	ALBEMARLE	STANLY COUNTY	9/0598	ILS RWY 22L, ORIG...
01/19/99	PA	PHILADELPHIA	PHILADELPHIA INTL	9/0334	COPTER ILS RWY 17 ORIG...
01/21/99	CA	HAWTHORNE	JACK NORTHROP FIELD/HAWTHORNE MUNI.	9/0379	VOR OR GPS RWY 25 AMDT 15...
01/21/99	GA	CANTON	CHEROKEE COUNTY	9/0376	NDB RWY 4, AMDT 2...
01/21/99	OK	TULSA	TULSA INTL	9/0370	ILS RWY 36R, AMDT 28B...
01/25/99	CA	HAWTHORNE	JACK NORTHROP FIELD/HAWTHORNE MUNI.	9/0406	LOC RWY 25 AMDT 10...
01/25/99	CA	STOCKTON	STOCKTON METROPOLITAN	9/0484	ILS RWY 29R AMDT 18A...
01/25/99	CA	STOCKTON	STOCKTON METROPOLITAN	9/0485	NDB RWY 29R AMDT 14A...
01/25/99	GA	ATLANTA	DEKALB-PEACHTREE	9/0408	ILS RWY 20L, AMDT 7A...
01/25/99	GA	ATLANTA	FULTON COUNTY AIRPORT-BROWN FIELD.	9/0407	ILS RWY 8, AMDT 15D...
01/25/99	WY	CASPER	NATRONA INTL	9/0479	ILS RWY 8, AMDT 24...
01/27/99	CA	OAKLAND	METROPOLITAN OAKLAND INTL	9/0521	NDB RWY 27R AMDT 4...
01/27/99	CA	OAKLAND	METROPOLITAN OAKLAND INTL	9/0522	ILS RWY 27R AMDT 31...
01/27/99	CA	OAKLAND	METROPOLITAN OAKLAND INTL	9/0523	VOR/DME OR GPS RWY 27L AMDT 10...
01/27/99	FL	POMPANO BEACH	POMPANO BEACH AIRPARK	9/0531	LOC RWY 14, AMDT 1...
01/27/99	IN	VALPARAISO	PORTER COUNTY MUNI	9/0520	ILS RWY 27, AMDT 2C...
01/27/99	LA	NEW ORLEANS	LAKEFRONT	9/0513	ILS RWY 18R, AMDT 12...
01/28/99	CA	FRESNO	FRESNO-CHANDLER DOWNTOWN	9/0601	GPS RWY 12R ORIG...
01/28/99	CA	SAN DIEGO (EL CAJON)	GILLESPIE FIELD	9/0602	LOC–D AMDT 10...
01/28/99	KY	LOUISVILLE	BOWMAN FIELD	9/0550	GPS RWY 24, ORIG...

FDC date	State	City	Airport	FDC No.	SIAP
01/28/99	MD	BALTIMORE	BALTIMORE-WASHINGTON INTL	9/0567	VOR OR GPS RWY 10 AMDT 15...
01/28/99	MD	BALTIMORE	BALTIMORE-WASHINGTON INTL	9/0568	VOR/DME RWY 15L ORIG–A...
01/28/99	MD	BALTIMORE	BALTIMORE-WASHINGTON INTL	9/0569	ILS RWY 10 AMDT 17...
01/28/99	MD	BALTIMORE	BALTIMORE-WASHINGTON INTL	9/0570	VOR/DME RWY 4 AMDT 1B...
01/28/99	MO	COLUMBIA	COLUMBIA REGIONAL	9/0584	ILS RWY 2, AMDT 12B...
01/28/99	NC	ALBEMARLE	STANLY COUNTY	9/0597	NDB OR GPS RWY 22L, ORIG–B...
01/28/99	NC	MAXTON	LAURINBURG-MAXTON	9/0566	ILS RWY 5, ORIG–A...
01/28/99	NJ	TETERBORO	TETERBORO	9/0571	FMS/ILS RWY 6 ORIG...
01/28/99	OH	WASHINGTON COURT HOUSE.	FAYETTE COUNTY	9/0545	GPS RWY 22, ORIG...
01/28/99	TN	CROSSVILLE	CROSSVILLE MEMORIAL-WHITSON FIELD.	9/0587	ILS RWY 26 AMDT 11A...
01/29/99	CA	VISALIA	VISALIA MUNI	9/0631	NDB RWY 30 AMDT 3...
01/29/99	CA	VISALIA	VISALIA MUNI	9/0632	ILS RWY 30 AMDT 5...
01/29/99	KS	MANHATTAN	MANHATTAN REGIONAL	9/0624	ILS RWY 3, AMDT 6A...
01/29/99	NC	LUMBERTON	LUMBERTON MUNI	9/0613	NDB OR GPS RWY 5, AMDT 1A...
01/29/99	NC	LUMBERTON	LUMBERTON MUNI	9/0615	VOR RWY 5, AMDT 8A...
01/29/99	NC	LUMBERTON	LUMBERTON MUNI	9/0617	VOR OR GPS RWY 13, AMDT 9A...
01/29/99	NC	LUMBERTON	LUMBERTON MUNI	9/0618	ILS RWY 5, ORIG–A...
01/29/99	NC	LUMBERTON	LUMBERTON MUNI	9/0619	NDB RWY 13, AMDT 8A...
02/01/99	TX	DALLAS	DALLAS-LOVE FIELD	9/0666	ILS RWY 31R, AMDT 3A...
02/01/99	WV	BLUEFIELD	MERCER COUNTY	9/0647	ILS RWY 23 AMDT 14B...
02/02/99	AR	CONWAY	DENNIS F. CANTRELL FIELD	9/0703	GPS RWY 25, ORIG...
02/02/99	NC	MONROE	MONROE	9/0705	ILS RWY 5, ORIG–B...
02/02/99	NC	MONROE	MONROE	9/0706	VOR/DME OR GPS–B, AMDT 6A...
02/02/99	NC	MONROE	MONROE	9/0707	NDB OR GPS RWY 5, AMDT 2A...
02/02/99	NC	MONROE	MONROE	9/0708	VOR OR GPS–A, AMDT 11A...
02/02/99	NJ	NEWARK	NEWARK INTL	9/0701	VOR RWY 11 AMDT 1...
02/02/99	TX	BIG SPRING	BIG SPRING MCMAHON-WRINKLE	9/0673	VOR/DME OR GPS RWY 17, AMDT 7...
02/02/99	TX	DALLAS	DALLAS-LOVE FIELD	9/0697	ILS RWY 13L, AMDT 29A...
02/02/99	TX	DALLAS	DALLAS-LOVE FIELD	9/0698	ILS RWY 31L, AMDT 19B...
02/02/99	TX	DALLAS	DALLAS-LOVE FIELD	9/0699	ILS RWY 13R, AMDT 3A...
02/02/99	TX	HOUSTON	GEORGE BUSH INTERCONTINENTAL AIRPORT/HOUSTON.	9/0675	ILS RWY 33R, AMDT 10A...
02/03/99	CA	SAN FRANCISCO	SAN FRANCISCO INTL	9/0741	ILS RWY 28R (CAT II AND CAT III) AMDT 9B...
02/03/99	PA	STATE COLLEGE	UNIVERSITY PARK	9/0735	ILS RWY 24 AMDT 8A...
02/03/99	TX	FORT WORTH	FOR WORTH ALLIANCE	9/0720	ILS RWY 34R, AMDT 3A...

[FR Doc. 99–3806 Filed 2–16–99; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29463; Amdt. No. 1914]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types of effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on February 5, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective February 25, 1999*

Provo, UT, Provo Muni, VOR RWY 13, Amdt 2
Manitowoc, WI, Manitowoc County, ILS RWY 17, Amdt 4

* * * *Effective March 25, 1999*

Phoenix, AZ, Williams Gateway, VOR or TACAN RWY 30C, Amdt 1
Phoenix, AZ, Williams Gateway, ILS RWY 30C, Amdt 1
Bessemer, AL, Bessemer, GPS RWY 5, Orig
Bessemer, AL, Bessemer, GPS RWY 23, Orig
Boise, ID, Boise Air Terminal/Gowen Field, VOR/DME or TACAN RWY 10L, Amdt 1
Murray, KY, Lyle-Oakley Field, NDB RWY 23, Amdt 1
Murray, KY, Lyle-Oakley Field, LOC RWY 23, Amdt 1
St. Paul, MN, St. Paul Downtown Holman Fld, ILS RWY 14, Orig
Alamogordo, NM, Alamogordo-White Sands Regional, VOR RWY 3, Amdt 1
Alamogordo, NM, Alamogordo-White Sands Regional, NDB RWY 3, Amdt 4
Alamogordo, NM, Alamogordo-White Sands Regional, GPS RWY 3, Amdt 1
Aurora, OR, Aurora State, LOC/DME RWY 17, Orig, Cancelled
Aurora, OR, Aurora State, LOC RWY 17, Orig
Reading, PA, Reading Regional/Carl A. Spaatz Field, GPS RWY 13, Orig
Houston, TX, Andrau Airpark, NDB RWY 16, Amdt 16, Cancelled
Wise, VA, Lonesome Pine, LOC/DME RWY 24, Orig
Wise, VA, Lonesome Pine, SDF/DME RWY 24, Amdt 3A, Cancelled
Seattle, WA, Boeing Field/King County Intl, LOC BC RWY 31L, Amdt 10, Cancelled

* * * *Effective May 20, 1999*

Terre Haute, IN, Terre Haute International-Hulman Field, VOR RWY 23, Amdt 20
Terre Haute, IN, Terre Haute International-Hulman Field, NDB RWY 5, Amdt 19
Terre Haute, IN, Terre Haute International-Hulman Field, GPS RWY 5, Orig
Terre Haute, IN, Terre Haute International-Hulman Field, GPS RWY 23, Orig
Mexico, MO, Mexico Memorial, GPS RWY 6, Orig
Mexico, MO, Mexico Memorial, GPS RWY 24, Orig
Mexico, MO, Mexico Memorial, VOR/DME RWY 24, Amdt 1
Sioux Falls, SD, Joe Foss Field, VOR or TACAN or GPS RWY 15, Amdt 20
Sioux Falls, SD, Joe Foss Field, VOR/DME or TACAN RWY 33, Amdt 11

Sioux Falls, SD, Joe Foss Field, NDB or GPS RWY 3, Amdt 24
Sioux Falls, SD, Joe Foss Field, ILS RWY 3, Amdt 27
Sioux Falls, SD, Joe Foss Field, ILS RWY 21, Amdt 9
Sioux Falls, SD, Joe Foss Field, GPS RWY 33, Orig

The FAA published an amendment in Docket No. *29437*, AMDT No. *1909* to part 97 of the Federal Aviation Regulations (Vol *64*, No. *11* page *2831;* dated *Tuesday, January 19, 1999*), under section 97.*23* effective *25 February 1999* which is hereby amended as follows:

St Louis, MO, Spirit of St Louis, VOR or GPS RWY 8R, Amdt 7A, Cancelled, is hereby recinded. Amendment 7A remains in effect.

St Louis, MO, Spirit of St Louis, VOR RWY 26L, Amdt 5, Cancelled, is hereby recinded. Amendment 5 remains in effect.

[FR Doc. 99–3805 Filed 2–16–99; 8:45 am]
BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (''Appliance Labeling Rule'')

AGENCY: Federal Trade Commission.

ACTION: Final rule revision.

SUMMARY: The Federal Trade Commission (''Commission'') revises Table 1 in § 305.9 of the Commission's Appliance Labeling Rule (''the Rule''), to incorporate the latest figures for average unit energy costs as published by the Department of Energy (''DOE'') in the **Federal Register** on January 5, 1999. Table I sets forth the representative average unit energy costs for five residential energy sources, which the Commission revises periodically on the basis of updated information provided by DOE.

DATES: The revision to § 305.9(a) are effective February 17, 1999. The mandatory dates for using these revised DOE cost figures in connection with the Appliance Labeling Rule are detailed in the Supplementary Information Section, below.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202–326–3035 Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Federal Trade Commission issued a final rule in response to a directive in section 324 of the Energy Policy and Conservation Act (''EPCA''), 42 U.S.C. 6201.[1] The Rule requires the disclosure of energy efficiency, consumption, or cost information on labels and in retail sales catalogs for eight categories of appliances, and mandates that the energy costs, consumption, or efficiency ratings be based on standardized test procedures developed by DOE. The cost information obtained by following the test procedures is derived by using the representative average unit energy costs provided by DOE. Table 1 in § 305.9(a) of the Rules sets forth the representative average unit energy costs to be used for all cost-related requirements of the Rule. As stated in § 305.9(b), the Table is to be revised periodically on the basis of updated information provided by DOE.

On January 5, 1999, DOE published the most recent figures for representative average unit energy costs.[2] Accordingly, Table 1 is revised to reflect these latest cost figures as set forth below.

How and when industry members must use (or not use) revised Table 1 to calculate cost disclosures for labeling and catalog sales is explained in detail in the paragraphs below. In sum:

- Manufacturers of refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, water heaters, and room air conditioners are not permitted to use the DOE cost figures published today to calculate the secondary operating cost figures on labels for their products until the Commission publishes new ranges of comparability for those products.
- Manufacturers of refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, and water heaters have no need for the DOE cost figures for making data submissions under § 305.8. The energy use information they must submit and use as primary energy use descriptors on labels for these products is now in terms of energy consumption, not operating cost.
- Manufacturers of products covered by the Rule must use the 1999 DOE cost figures published today to calculate operating cost representations in catalogs, point of sale literature and other point of sale representations, and advertisements that are drafted and printed after May 18, 1999.
- Beginning May 18, 1999, manufacturers of clothes dryers, television sets, kitchen ranges and ovens, and space heaters must begin using the 1999 representative average unit costs for energy in all operating cost representations.

For Labeling of Products Covered by the Commission's Rule [3]

Manufacturers of covered products are not permitted to use the National Average Representative Unit Costs published today on labels for their products until the Commission publishes new ranges of comparability for those products.

Manufactuers of storage-type water heaters must continue to use the 1994 DOE cost figures (8.41 cents per kilo Watt-hour for electricity, 60.4 cents per therm for natural gas, $1.054 per gallon for No. 2 heating oil, and 98.3 cents per gallon for propane) in determining the operating cost disclosures on the labels on their products. This is because the 1994 DOE cost figures were in effect when the 1994 ranges of comparability for storage-type water heaters were published, and those 1994 ranges are still in effect for those products.[4] Manufacturers of storage-type water heaters must continue to use the 1994 cost figures to calculate the estimated annual operating cost figures on their labels until the Commission publishes new ranges of comparability for storage-type water heaters.

Manufacturers of heat pump water heaters and room air conditioners must continue to derive the operating cost disclosures on labels by using the 1995 National Average Representative Unit

[1] 44 FR 66466. Since its promulgation, the rule has been amended five times to include new product categories—central air conditioners (52 FR 46888, Dec. 10, 1987), fluorescent lamp ballasts (54 FR 1182, Jan. 12, 1989), certain plumbing products (58 FR 54955, Oct. 25, 1993), certain lamp products (59 FR 25176, May 13, 1994), and pool heaters and certain residential water heater types (59 FR 49556, Sept. 28, 1994). Obligations under the rule concerning fluorescent lamp ballasts, lighting products, plumbing products and pool heaters are not affected by the cost figures in this notice.

[2] 64 FR 487.

[3] Sections 305.11(a)(5)(i)(H)(2) and (3) of the Rule (16 CFR 305.11(a)(5)(i)(H)(2) and (3)) require that labels for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, water heaters, and room air conditioners contain a secondary energy usage disclosure in terms of an estimated annual operating cost (labels for clothes washers and dishwashers will show two such secondary disclosures—one based on operation with water heated by natural gas, and one operation with water heated by electricity). The labels also must disclose, below this secondary estimated annual operating cost, the fact that the estimated annual operating cost is based on the appropriate DOE energy cost figure, and must identify the year in which the cost figure was published.

[4] The 1994 DOE cost figures were published by DOE on December 29, 1993 (58 FR 68901), and by the Commission on February 8, 1994 (59 FR 5699). The current (1994) ranges of comparability for storage-type water heaters were published on September 23, 1994 (59 FR 48796). On August 21, 1995 (60 FR 43367), on September 16, 1996 (61 FR 48620), on August 25, 1997 (62 FR 44890), and again on August 28, 1998 (63 FR 45941), the Commission announced that the 1994 ranges for storage-type water heaters will continue to remain in effect.

Costs (8.67 cents per kilo Watt-hour for electricity, 63 cents per therm for natural gas, $1.008 per gallon for No. 2 heating oil, and 98.5 cents per gallon for propane) that were in effect when the current (1995) ranges of comparability for these products were published.[5] Manufacturers of heat pump water heaters and room air conditioners must continue to use the 1995 DOE cost figures to calculate the operating cost disclosure disclosed on labels until the Commission publishes new ranges of comparability for heat pump water heaters or room air conditioners based on future annual submissions of data. In the notice announcing the new ranges, the Commission also will announce that operating cost disclosures must be based on the DOE cost figure for electricity in effect at that time.

Manufacturers of dishwashers must continue to base the required secondary operating cost disclosures on labels on the 1997 National Average Representative Unit Costs for electricity (8.31 cents per kiloWatt-hour), natural gas (61.2 cents per therm), propane (98 cents per gallon), and/or heating oil (99 cents per gallon) that were published by DOE on November 18, 1996,[6] and by the Commission on February 5, 1997,[7] and that were in effect when the 1997 ranges of comparability for these products were published.[8]

Manufacturers of refrigerators, refrigerator-freezers, freezers, clothes washers, and instantaneous water heaters must continue to derive the operating cost disclosures on labels by using the 1998 National Average Representative Unit Costs (8.42 cents per kilo Watt-hour for electricity, 61.9 cents per therm for natural gas, 95 cents per gallon for No. 2 heating oil, and 95 cents per gallon for propane) that were in effect when the current (1998) ranges of comparability for these products were published.[9] Manufacturers of refrigerators, refrigerator-freezers, freezers, clothes washers, and instantaneous water heaters must continue to use the 1998 DOE cost figures to calculate the operating cost disclosure disclosed on labels until the Commission publishes new ranges of comparability for refrigerators, refrigerator-freezers, freezers, clothes washers, and instantaneous water heaters based on future annual submissions of data. In the notice announcing the new ranges, the Commission also will announce that operating cost disclosures must be based on the DOE cost figures in effect at that time.

For 1999 Submissions of Data Under § 305.8 of the Commission's Rule

Manufacturers no longer need to use the DOE cost figures in complying with the data submission requirements of § 305.8 of the Rule. Pursuant to amendments to the Rule published on July 1, 1994 [10] (with extended compliance dates published on December 8, 1994 [11]), the estimated annual operating cost is no longer the primary energy usage descriptor for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, and water heaters. Under the amendments, the energy usage and the ranges of comparability for those product categories must be expressed in terms of estimated annual energy consumption (kilo Watt-hour use per year for electricity, therms per year for natural gas, or gallons per year for propane and oil). Thus, the 1999 (and all subsequent) data submissions under 305.8 for these product categories (which are to enable the Commission to publish ranges of comparability) must be made in terms of estimated annual energy consumption, not cost. The energy efficiency descriptors for the other products covered by the Rule (room air conditioners, furnaces, boilers, central air conditioners, heat pumps, and pool heaters) are unaffected by the amendments mentioned above. The annual data submission requirements for those products, which are not based on the DOE cost figures, will continue to be in terms of energy efficiency.

For convenience, the annual dates for data submission are repeated here:

Clothes washers: March 1
Water heaters: May 1
Furnaces: May 1
Room air conditioners: May 1
Pool Heaters: May 1
Dishwashers: June 1
Central air conditioners: July 1
Heat pumps: July 1
Refrigerators: August 1
Refrigerator-freezers: August 1
Freezers: August 1

For Energy Cost Representations Respecting Covered Products in Catalogs

Energy cost representations in catalogs that are drafted and printed while the 1999 cost figures are in effect must be derived using the 1999 energy costs beginning May 19, 1999.

For Energy Cost Representations Respecting Products Covered by EPCA but Not by the Commission's Rule

Manufacturers of products covered by section 323(c) of EPCA, 42 U.S.C. 6293(c), but not by the Appliance Labeling Rule (clothes dryers, television sets, kitchen ranges and ovens, and space heaters) must use the 1999 DOE energy costs in all operating cost representations beginning May 19, 1999.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a Regulatory Flexibility Act analysis (5 U.S.C. 603–604) are not applicable to this proceeding because the amendments do not impose any new obligations on entities regulated by the Appliance Labeling Rule. Thus, the amendments will not have a ''significant economic impact on a substantial number of small entities'' (5 U.S.C. 605). The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and certifies, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments announced today will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

PART 305—[AMENDED]

Accordingly, 16 CFR part 305 is amended as follows:

1. The authority citation for part 305 continues to read:

Authority: 42 U.S.C. 6294.

2. Section 305.9(a) is revised to read as follows:

[5] The 1995 DOE cost figures were published by DOE on January 5, 1995 (60 FR 1773), and by the Commission on February 17, 1995 (60 FR 9296). The current (1995) ranges of comparability for heat pump water heaters were published on August 21, 1995 (60 FR 43367). The current (1995) ranges for room air conditioners were published on November 13, 1995 (60 FR 56945). On September 16, 1996 (61 FR 48620), again on August 25, 1997 (62 FR 44890), and again on August 28, 1998 (63 FR 45941), the Commission announced that the 1995 ranges for heat pump water heaters and room air conditioners would continue to remain in effect.

[6] 61 FR 58679.

[7] 62 FR 5316.

[8] The current ranges for dishwashers were published on August 25, 1997 (62 FR 44890). On August 28, 1998 (63 FR 45941), the Commission announced that the 1997 ranges for dishwashers will continue to remain in effect.

[9] The 1998 DOE cost figures were published by DOE on December 8, 1997 (62 FR 64574), and by the Commission on December 29, 1997 (62 FR 67560). The current (1998) ranges for clothes washers were published on April 20, 1998 (63 FR 19397). The current (1998) ranges for instantaneous water heaters were published on August 28, 1998 (63 FR 45941). The current (1998) ranges for refrigerators, refrigerator-freezers, and freezers were published on December 2, 1998 (63 FR 66428).

[10] 59 FR 34014.

[11] 59 FR 63688.

§ 305.9 Representative average unit energy cost.

(a) Table 1, below, contains the representative unit energy costs to be utilized for all requirements of this part.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES

[1999]

Type of energy	In commonly used terms	As required by DOE test procedure	Dollars per million Btu [1]
Electricity	8.22¢/kWh [2 3]	$0.0822/kWh	$24.09
Natural Gas	68.8¢/therm [4] or $7.07/MCF [5 6]	$0.00000688/Btu	6.88
No. 2 heating oil	$.89/gallon [7]	$0.00000642/Btu	6.42
Propane	$.77 gallon [8]	$0.00000843/Btu	8.43
Kerosene	$1.04/gallon [9]	$0.00000770/Btu	7.70

[1] Btu stands for British thermal unit.
[2] kWh stands for kiloWatt hour.
[3] 1 kWh = 3,412 Btu.
[4] 1 therm = 100,000 Btu. Natural gas prices include taxes.
[5] MCF stands for 1,000 cubic feet.
[6] For purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,027 Btu.
[7] For purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.
[8] For purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,333 Btu.
[9] For purposes of this table, 1 gallon of kerosene has an energy equivalence of 135,000 Btu.

* * * * *

Donald S. Clark,

Secretary.

[FR Doc. 99–3801 Filed 2–16–99; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[TD ATF–408; Re: Notice No. 858]

RIN 1512–AA07

Chiles Valley Viticultural Area (96F–111)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This Treasury decision will establish a viticultural area in Napa County, California, to be known as ''Chiles Valley.'' This viticultural area is the result of a petition submitted by Mr. Volker Eisele, owner of the Volker Eisele Vineyard and Winery.

EFFECTIVE DATE: April 19, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas B. Busey, Specialist, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226, (202) 927–8230.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4. These regulations allow the establishment of definitive viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. On October 2, 1979, ATF published Treasury decision ATF–60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features, the boundaries of which have been delineated in subpart C of part 9.

Section 4.25a(e)(2), Title 27, CFR, outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale, and;

(e) A copy (or copies) of the appropriate U.S.G.S. map(s) with the proposed boundaries prominently marked.

Petition

ATF received a petition from Mr. Volker Eisele, representing the Chiles Valley District Committee proposing to establish a new viticultural area in Napa County, California to be known as ''Chiles Valley District.'' The Chiles Valley viticultural area is located entirely within the Napa Valley. The viticultural area is located in the eastern portion of Napa Valley between and on the same latitude as St. Helena and Rutherford. It contains approximately 6,000 acres, of which 1,000 are planted to vineyards. Four wineries are currently active within the viticultural area.

Comments

A Notice of Proposed Rulemaking, Notice No. 858 (63 FR 13583) was published in the **Federal Register** on March 20, 1998, requesting comments from all interested persons concerning the proposed viticultural area. Specific comments were requested on the use of the term ''District'' as part of the viticultural area name as proposed in the original petition. ATF noticed the proposed area as ''Chiles Valley'' because ATF did not find that the petitioner submitted sufficient evidence to support the use of the term ''District'' with Chiles Valley. Six comments were received in response to this notice. All

six comments favored the addition of ''District'' to the viticultural name, but no additional evidence was submitted to support this change. The six comments only reiterated the petitioner's original argument that the use of the term ''District'' was important to distinguish the Chiles Valley from the larger valley, in this case the Napa Valley. None of the comments added any data or historical evidence for the use of the term ''District'' in conjunction with Chiles Valley.

Evidence That The Name Of The Area Is Locally Or Nationally Known

An historical survey written by Charles Sullivan spells out the historical use of the name Chiles Valley and vineyard plantings dating back to the late 1800's. Numerous references exist indicating the general use of the name ''Chiles Valley'' to refer to the petitioned area. The petitioner included copies of title pages of various publications, guide and tour book references, public and private phone book listings and Federal and State agency maps, to illustrate the use of the name.

However, as noted above, ATF has found that neither the petitioner nor the commenters have submitted sufficient evidence to support the use of the term ''District'' with the name ''Chiles Valley.''

Historical Or Current Evidence That The Boundaries Of The Viticultural Area Are As Specified In The Petition

The petitioner provided evidence that the boundaries establish a grape producing area with an identifiable character and quality, based on climate, topography, and historical tradition. The historical evidence can be dated to the mid 1800's with a land grant from the Mexican government to Joseph Ballinger Chiles, whose name the valley would later bear. The land grant was called Rancho Catacula and these lands all lie within the proposed appellation boundaries. The boundaries of the land grant are still recognized on U.S.G.S. maps of the area. A vineyard planting was one of the earliest agricultural operations conducted. For the most part the boundaries of the proposed area use the land grant (Rancho line) boundary lines. This area includes virtually all lands that in any way might be used for agricultural purposes. Beyond the Rancho line are very steep slopes, which are mostly part of the serpentine chaparral soil formation. Historically it is also fairly clear that the land grant boundaries were drawn to include usable land rather than the watershed, which, on all sides of the old Rancho Catacula, is much further up the slopes. In sum, the boundaries encompass an area of remarkable uniformity with respect to soils, climate and elevation that produces a unique microclimate within the Napa Valley.

Evidence Relating To The Geographical Features (Climate, Soil, Elevation, Physical Features, Etc.) Which Distinguish Viticultural Features Of The Proposed Area From Surrounding Areas

The geographical features of the viticultural area set it apart from the surrounding area in the Napa Valley and produce a unique microclimate.

The lands within the proposed boundaries generally lie between 800 and 1000 feet above sea level. The valley runs northwest to southeast and is therefore an open funnel for the prevailing northwesterly winds. This fairly constant northwesterly flow produces substantial cooling during the day and, in combination with the altitude, relatively dry air. During the night, this drier air leads to more rapid cooling than in most of the Napa Valley. In addition, the narrow valley is surrounded by hills up to 2200 feet which concentrate the cooler air flowing down the hillsides toward the valley floor where the vineyards are located.

Also, the relative distance from the San Pablo Bay and the Pacific Ocean allows the summer fog to move in much later than in the main Napa Valley. By the time the fog does reach the Chiles Valley, the air temperatures have dropped much more dramatically than in the Napa Valley, thereby causing much lower temperatures during the night. Late fog ceiling, combined with low minimums, cause a very slow heat buildup during the day, again producing relatively cooler average temperatures than those found in many places of the Napa Valley.

Available data indicates a ''Region Two'' according to the U.C. Davis climate classification. The growing season starts later than in the Napa Valley due to a colder winter with temperatures dropping below 20 degrees F. The high incidence of spring frost is another indication of the generally cooler climate conditions.

In the areas immediately adjacent to the boundaries, the micro-climate changes significantly. As one moves up the hillsides on either side of Chiles Valley, the summer fog blanket gets thinner and thinner and disappears altogether at approximately 1400 to 1500 feet elevation.

Since the cold air drains down into the Chiles Valley, the night time temperatures are quite a bit higher on the steep slopes than on the valley floor. In addition, the lack of fog allows a much faster temperature build up during the day, reaching the daily high two to three hours earlier than on the valley floor. Not only is the temperature drop at nightfall less, but also much more gradual so that during a 24 hour period the heat summation is substantially higher on the slopes than within the proposed boundaries. In winter, the situation is reversed. Strong winds tend to chill the uplands creating a cooler climate than on the valley floor. Snowfall above 1400 feet has been observed many times.

The microclimatic limitations combined with enormous steepness and very poor soil (serpentine, heavy sandstone formations, and shale out croppings) create an abrupt change from the viticultural area to the areas surrounding it.

The Pope Valley to the north of the proposed viticultural area is also significantly different. A combination of a lower elevation valley floor and substantially higher mountains on the western side causes the formation of inversion layers, which result in substantially higher average temperatures during the growing season and significantly lower ones in the winter. In addition, the summer fog from the Pacific Ocean never reaches the Pope Valley.

The petitioner stated that the particular interplay between climate and soil make for unique growing conditions in the proposed area. The soils within the proposed appellation are uncommonly well drained and of medium fertility. The overall terrain gently slopes toward a series of creeks, which act as natural drainage for surface as well as subterranean water. The petitioner believes this is a good basis for high quality grapes.

Uniform elevation and relatively uniform soil make the proposed viticultural area a clearly identifiable growing area. Almost all vineyards lie between 800 and 1000 feet elevation. As a general rule, the soils in the Chiles Valley all belong to the Tehama Series: nearly level to gently slopping, well drained Silt loams on flood plains and alluvial fans.

The total planted acreage in 1996 was roughly 1000 acres. The remaining plantable area does not exceed 500 acres. This small size illuminates the petitioner's goal of a well defined, specific appellation.

Geographical Brand Names

A brand name of viticultural significance may not be used unless the wine meets the appellation of origin requirements for the geographical area named. See 27 CFR 4.39(i).

Consequently, establishment of this viticultural area would preclude the use of the term ''Chiles Valley'' as a brand name for wine, unless the wine can claim ''Chiles Valley'' as an appellation of origin, or complies with one of the exceptions in the regulation.

Proposed Boundaries

The boundaries of the Chiles Valley viticultural area may be found on four 1:24,000 scale U.S.G.S. maps titled: St. Helena, CA(1960); Rutherford, CA (1968); Chiles Valley, CA (1980); and Yountville, CA (1968).

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, (44 U.S.C. 3507(j)) and its implementing regulations, 5 C.F.R. part 1320, do not apply to this rule because no requirement to collect information is proposed.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant impact on a substantial number of small entities. The establishment of a viticultural area is neither an endorsement nor approval by ATF of the quality of wine produced in the area, but rather an identification of an area that is distinct from surrounding areas. ATF believes that the establishment of viticultural areas merely allows wineries to more accurately describe the origin of their wines to consumers, and helps consumers identify the wines they purchase. Thus, any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from the region. Accordingly, a regulatory flexibility analysis is not required. No new requirements are imposed.

Executive Order 12866

It has been determined that this regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this proposal is not subject to the analysis required by this executive order.

Drafting Information

The principal author of this document is Thomas B. Busey, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

Title 27 Code of Federal Regulations, part 9, American Viticultural Areas, is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Subpart C is amended by adding § 9.154 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.154 Chiles Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Chiles Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Chiles Valley viticultural area are four 1:24,000 Scale U.S.G.S. topography maps. They are titled:

(1) St. Helena, CA 1960 photorevised 1980

(2) Rutherford, CA 1951 photorevised 1968

(3) Chiles Valley, CA 1958 photorevised 1980

(4) Yountville, CA 1951 photorevised 1968

(c) *Boundary.* The Chiles Valley viticultural area is located in the State of California, entirely within the Napa Valley viticultural area. The boundaries of the Chiles Valley viticultural area, using landmarks and points of reference found on appropriate U.S.G.S. maps follow. The local names of roads are identified by name.

(1) Beginning on the St. Helena, CA quadrangle map at the northernmost corner of Rancho Catacula in Section 34, Township 9 North (T9N), Range 5 West (R5W), Mount Diablo Base and Meridian (MDBM);

(2) Then in southwesterly direction along the Rancho Catacula boundary line to its intersection with the Rancho La Jota boundary line;

(3) Then in a south-southeasterly direction approximately 3,800 feet along the Rancho Catacula/Rancho La Jota boundary line to the point where the Rancho Catacula boundary separates from the common boundary with Rancho La Jota;

(4) Then in a southeasterly direction continuing along the Rancho Catacula boundary approximately 23,600 feet to a point of intersection, in the NE ¼ Sec. 19, T8N, R4W, on the Chiles Valley quadrangle map, with a county road known locally as Chiles and Pope Valley Road;

(5) Then in a southwesterly direction along Chiles and Pope Valley Road to a point where it first crosses an unnamed blueline stream in the SE ¼ Section 19, T8N, R4W;

(6) Then following the unnamed stream in generally southeast direction to its intersection with the 1200 foot contour;

(7) Then following the 1200 foot contour in a northeasterly direction to a point of intersection with the Rancho Catacula boundary in section 20, T8N, R4W;

(8) Then in a southeasterly direction along the Rancho Catcula boundary approximately 17,500 feet to the southwest corner of Rancho Catacula in section 34, T8N, R4W on the Yountville, CA, quadrangle map;

(9) Then in a northeasterly direction along the Rancho Catacula boundary approximately 650 feet to its intersection with the 1040 foot contour;

(10) Then along the 1040 foot contour in a generally east and northeast direction to its intersection with the Rancho Catacula boundary;

(11) Then in a northeasterly direction along the Rancho Catacula boundary approximately 1100 feet to its intersection with the 1040 foot contour;

(12) Then along the 1040 foot contour in an easterly direction and then in a northwesterly direction to its intersection of the Rancho Catacula boundary;

(13) Then in a southwesterly direction along the Rancho Catacula boundary approximately 300 feet to a point of intersection with a line of high voltage power lines;

(14) Then in a westerly direction along the high voltage line approximately 650 feet to its intersection with the 1000 foot contour;

(15) Then continuing along the 1000 foot contour in a generally northwesterly direction to the point of intersection with the first unnamed blueline stream;

(16) Then along the unnamed stream in a northerly direction to its point of intersection with the 1200 foot contour;

(17) Then along the 1200 foot contour in a northwesterly direction to its points of intersection with the Rancho Catacula boundary in Section 35, T9N, R5W on the St. Helena, CA, quadrangle map;

(18) Then along the Rancho Catacula boundary in a northwesterly direction approximately 5,350 feet to a northernmost corner of Rancho Catacula, the beginning point on the St. Helena quadrangle map a the northernmost corner of Rancho Catacula in Section 34, T9N, R5W, MDBM.

Signed: September 30, 1998.

John W. Magaw,

Director.

Approved: January 19, 1999.

John P. Simpson,

Deputy Assistant Secretary, Regulatory, Tariff and Trade Enforcement.

[FR Doc. 99–3759 Filed 2–16–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–99–005]

Drawbridge Operation Regulations; Cambridge Creek, Cambridge, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District has issued a temporary deviation from the regulations governing the operation of the drawbridge across Cambridge Creek, mile 0.1, in Cambridge, Maryland. Beginning March 15, 1999, through March 19, 1999, this deviation allows the bridge to remain closed to navigation 24-hours a day. This closure is necessary to facilitate the replacement of the fender system piling.

EFFECTIVE DATE: This deviation is effective 24-hours a day from March 15, 1999 through March 19, 1999.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (757) 398–6222.

SUPPLEMENTARY INFORMATION: The Cambridge Creek drawbridge is owned and operated by the Maryland State Highway Administration (MDSHA). The current regulations in Title 33 Code of Federal Regulations, § 117.549 require the draw to open on signal from 6 a.m. to 8 p.m.; except that, from 12 noon to 1 p.m. Monday through Friday, the draw need not be opened. From 8 p.m. to 6 a.m., seven-days a week, the draw need not be opened.

On December 16, 1998, the Coast Guard received a request from MDSHA to close the navigation channel at the Cambridge Creek bridge to facilitate the replacement of the fender system piling. This work will also result in the complete closure of the drawbridge. MDSHA held a town meeting at which businesses and marinas affected by this replacement work requested a complete closure of the roadway to speed construction. A complete closure allows the replacement work to be completed before the weather warms up and their fishing and tourist season begins.

The Coast Guard has advised the local Coast Guard units, including Activities Baltimore, of the bridge's closure on the requested dates, and they did not object. The Coast Guard will inform the commercial/recreational users of the waterway of the bridge closures in the weekly Notice to Mariners so that these vessels can arrange their transits to avoid being negatively impacted by the temporary deviation.

Beginning March 15, 1999, through March 19, 1999, this deviation allows the bridge to remain closed to navigation 24-hours a day.

Dated: February 3, 1999.

Roger T. Rufe, Jr.,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 99–3767 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL168–1a; FRL–6232–8]

Approval and Promulgation of Air Quality Implementation Plans; Illinois: Clean Fuel Fleet Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving through direct final action a State Implementation Plan (SIP) revision submitted on February 13, 1998, by the Illinois Environmental Protection Agency (IEPA). This SIP revision delays the implementation of the Illinois Clean Fuel Fleet Program (CFFP) purchase requirement from model year 1998 to model year 1999, based on EPA's decision to allow States to delay purchase requirements. This change is intended to ensure successful implementation of the Illinois CFFP, and to ensure that an adequate supply of appropriate vehicles is available for fleet operators to purchase once the program is underway. In addition, the SIP revision includes two minor corrections to the CFFP rules federally approved on March 19, 1996.

DATES: This rule is effective on April 19, 1999, unless EPA receives adverse written comments by March 19, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comment should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the State submittal are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Francisco Acevedo at (312) 886–6061 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Environmental Protection Specialist, at (312) 886–6061.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act (CAA) requires certain States to adopt and submit to EPA SIP revisions containing a CFFP for nonattainment areas with 1980 populations greater than 250,000 that are classified as serious or worse for ozone, or which have a design value of at least 16.0 ppm for carbon monoxide (CO).

In Illinois, the Chicago area is classified as a severe ozone nonattainment area and is therefore subject to the CFFP requirements.

The CAA provides that States' CFFP SIP revisions must require fleet operators with 10 or more centrally fueled vehicles or capable of being centrally fueled to include a specified percentage of clean-fuel vehicles in their purchases each year. There are additional specifications in section 246 of the CAA with which States' SIP revisions must also comply, including the requirements that covered fleet operators must operate the Clean Fuel Vehicles (CFVs) in covered nonattainment areas on a clean alternative fuel, defined as a fuel on which the vehicle meets EPA's CFV standards. EPA promulgated emission standards for CFVs in September 1994. (See 40 CFR part 88) On September 29, 1995, the IEPA submitted to EPA a SIP revision which allowed for the implementation of a CFFP in the Chicago ozone nonattainment area. On March 19, 1996, EPA approved the Illinois SIP submittal and made the program federally enforceable.

On May 22, 1997, and April 23, 1998, EPA issued guidance and a direct final rule respectively, allowing a one year delay of the CFFP in those areas that are unable to meet the purchase requirements cited in the Clean Air Act. (See 63 FR 20103 (April 23, 1998)).

On July 7, 1997, the IEPA filed proposed rules with the Illinois Pollution Control Board (IPCB) to amend the CFFP pursuant to Section 28.5 of the Illinois Environmental Protection Act and incorporate the one year delay of the program's purchase requirement. A public hearing was held on August 27, 1997, in Chicago, Illinois and on November 20, 1997, the IPCB adopted a Final Opinion and Order. On December 5, 1997, the rules were published in the Illinois Register. They became effective on November 25, 1997.

II. EPA's Analysis of Illinois' CFF Program

In light of EPA's action on April 23, 1998, to allow a one year delay in program implementation, States with adopted CFFP SIPs may revise the SIPs to provide for a model year 1999 start date for the CFFP purchase requirements. The EPA believes this action will provide States and fleet owners the necessary flexibility in those areas that are unable to meet the CFF purchase requirements due to vehicle availability.

Illinois has estimated that the first year of the program would result in a volatile organic compound reduction of 0.3 tons per day with a maximum reduction of about 2.8 tons per day when the program becomes fully effective in model year 2003. With a one year delay, the peak annual emission reduction will occur in model year 2004, which is in advance of the 2007 ozone attainment date for the Chicago nonattainment area. The Illinois submittal includes amendments to the Illinois CFFP rules in 35 Ill. Adm. Code 241, sections 241.113(a)(1)(A), (B), and (C) and (a)(2); section 241.130(b); section 241.140, section 241. APPENDIX B Credit Values (Tables A and D). Fleet owners and operators who acquire light-duty vehicles were required to acquire 30% clean fuel fleet vehicles (CFFVs) beginning in model year (MY) 1998, 50% CFFVs in MY 1999, and 70% CFFVs in MY 2000. The final rules delay the requirements for the acquisition of light duty vehicles until MY 1999, MY 2000, and MY 2001, respectively. In addition, fleet owners and operators who acquire heavy-duty vehicles were originally required to acquire 50% CFFVs beginning in MY 1998; they will now need to meet the heavy-duty purchase requirement starting in MY 1999.

The amendment to section 241.130(b) changes the date by which an owner or operator of a fleet may earn credits for acquiring CFFVs before the compliance date of the program. The amendment to section 241.140 changes the first date by which owners or operators of fleets must submit annual reports to IEPA from November 1, 1998 to November 1, 1999. In addition to the one year delay, the EPA published a document in the January 3, 1996, **Federal Register** correcting two credit values for the CFFP credit program. These two values have been corrected in the State rules submitted with this SIP revision under section 241. APPENDIX B (Tables A and D).

III. Final Rulemaking Action

EPA is approving the delay of the CFFP implementation by one year and the corrections made to the credit value tables. The EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the State Plan should adverse written comments be filed. This rule will be effective without further notice unless the Agency receives relevant adverse written comment by March 19, 1999. Should the Agency receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 19, 1999.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the

requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act (CAA) do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. Union Electric Co. v. EPA., 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 19, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Nitrogen oxide, Ozone, Volatile organic compounds.

Dated: February 2, 1999.

David A. Ullrich,

Acting Regional Administrator, Region V.

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(146) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(146) On February 13, 1998, the Illinois Environmental Protection Agency (IEPA) submitted a revision to the Illinois State Implementation Plan (SIP). This revision amends certain sections of the Clean-Fuel Fleet Program (CFFP) in the Chicago ozone nonattainment area to reflect that fleet owners and operators will have an additional year to meet the purchase requirements of the CFFP. The amendment changes the first date by which owners or operators of fleets must submit annual reports to IEPA from November 1, 1998 to November 1, 1999. In addition, this revision corrects two credit values in the CFFP credit program.

(i) Incorporation by reference.

(A) 35 Illinois Administrative Code 241; Sections 241.113, 241.130, 241.140, 241.Appendix B.Table A, 241.Appendix B.Table D adopted in R95–12 at 19 Ill. Reg. 13265, effective September 11, 1995; amended in R98–8, at 21 Ill. Reg. 15767, effective November 25, 1997.

(ii) Other Material.

(A) February 13, 1998, letter and attachments from the Illinois Environmental Protection Agency's Bureau of Air Chief to the United States Environmental Protection Agency's Regional Air and Radiation Division Director submitting Illinois' amendments to the Clean Fuel Fleet regulations as a revision to the ozone State Implementation Plan.

[FR Doc. 99–3522 Filed 2–16–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MI67–02–7275; FRL–6302–3]

Approval and Promulgation of Implementation Plans; Michigan: Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a correction to the State Implementation Plan (SIP) for the State of Michigan regarding the State's emission limitations and prohibitions for air contaminant or water vapor. EPA has determined that Michigan's air quality Administrative Rule, R336.1901 (Rule 901) was erroneously incorporated into the SIP. EPA is removing this rule from the

approved Michigan SIP because the rule does not have a reasonable connection to the national ambient air quality standards (NAAQS) and related air quality goals of the Clean Air Act. The intended effect of this correction to the SIP is to make the SIP consistent with the requirements of the Clean Air Act, as amended in 1990 (''the Act''), regarding EPA action on SIP submittals and SIPs for national primary and secondary ambient air quality standards.

EFFECTIVE DATE: This final rule is effective on March 19, 1999.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Victoria Hayden at (312) 886–4023 before visiting the Region 5 Office.)

A copy of this SIP revision is available for inspection at the following location: Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), room M1500, United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: Victoria Hayden, Environmental Engineer, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604; Telephone Number (312) 886–4023.

SUPPLEMENTARY INFORMATION: On May 19, 1998, EPA published a direct final rule (63 FR 27492) approving the removal of Rule 901 of the Michigan air quality Administrative Rules from the approved Michigan SIP pursuant to section 110(k)(6) of the Act. The formal SIP correction request was submitted by the Michigan Department of Environmental Quality on January 29, 1998. In the May 19, 1998 direct final rulemaking, EPA stated that if adverse comments were received on the final approval within 30 days of its publication, EPA would publish a document announcing the withdrawal of its direct final rulemaking action. Because EPA received adverse comments on the direct final rulemaking within the prescribed comment period, EPA withdrew the May 19, 1998 final rulemaking action to remove Rule 901 from Michigan's approved SIP. This withdrawal document appeared in the **Federal Register** on July 29, 1998 [63 FR 40370]. A companion proposed rulemaking notice to approve the removal of Rule 901 from Michigan's approved SIP was published in the Proposed Rules section of the May 19, 1998 **Federal Register** (63 FR 27541).

Response to Comments

Several groups submitted letters commenting on the May 19, 1998 direct final rulemaking that were both opposed to and in favor of the removal of Rule 901 from the State of Michigan's approved SIP. About half of the letters received were from community organizations and environmental organizations from across the State that urged EPA to maintain Rule 901 as part of Michigan's approved SIP stating its importance to the citizens of Michigan's health, welfare and quality of life. Other letters received, largely representing industry, supported EPA's May 19, 1998 direct final rulemaking to remove Rule 901. EPA evaluated the comments, which have been incorporated into the docket for the rulemaking. The following discussion summarizes and responds to the comments received.

Comment: It is important to have broad environmental statutes like Rule 901 in the SIP to protect local air quality.

Response: Michigan Rule 901 is a general rule that prohibits the emission of an air contaminant which is injurious to human health or safety, animal life, plant life of significant economic value, property, or which causes unreasonable interference with the comfortable enjoyment of life and property. It is a State rule that has been primarily used to address odors and other local nuisances. Historically, the rule has not been used for purposes of attaining or maintaining any of the National Ambient Air Quality Standards (NAAQS). In accordance with the Clean Air Act, only rules pertaining to the attainment and maintenance of the NAAQS can be lawfully required as part of a SIP.

Comment: Communities need the assistance of federal agencies to challenge State and local authorities to do all that is in their power to reduce pollution in local neighborhoods. One commentor references a particular neighborhood that suffers from heavy odors from surrounding industrial and municipal sources.

Response: The Clean Air Act does not authorize the EPA to specifically require States to adopt rules to address odors and nuisances as part of their SIPs. Only rules that have a reasonable connection to the NAAQS and related air quality goals of the Clean Air Act are required. Rule 901 was never submitted for purposes of attaining or maintaining the NAAQS and was, therefore, incorrectly submitted to EPA for inclusion in the SIP. Although Rule 901 will be removed from the SIP, Rule 901 will remain as a State rule and still be enforceable at the State level. In addition, Michigan has submitted, and EPA has approved, regulations to attain the NAAQS under the Clean Air Act. These regulations are directly related to protecting human health and will continue to be federally enforceable.

Comment: Rule 901 is the only rule that provides basis for enforcement actions related to odor and nuisance offenses. A commentor hopes that the removal of Rule 901 results in a substitute rule that is more relevant and can be readily enforced by the State. Residents of the State of Michigan should have the protection from odors, fumes in high concentrations, blowing dust, and other negative air quality issues that the local and county municipal governments cannot or are unable to enforce because of the cost or because of the lack of expertise or jurisdiction.

Response: As stated previously, the Clean Air Act does not authorize EPA to specifically require the State to develop rules to address odor and nuisance offenses. The Clean Air Act does require States to develop rules to protect public health and welfare. If a pollution source or combination of sources is presenting an imminent and substantial endangerment to public health or welfare, or the environment, the State of Michigan, as well as the EPA, have the ability under section 303 of the Act to take action against that source. Because the Clean Air Act does not require State rules to address odors and nuisances, EPA is approving the removal of Rule 901 from Michigan's approved SIP.

Final Action

The EPA is approving the removal of Rule 901 of the Michigan air quality Administrative Rules from the approved Michigan SIP pursuant to section 110(k)(6) of the Act.

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal

government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitle ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effect of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because it removes requirements from the SIP. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

This is an action to remove rules from the Michigan SIP. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 19, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Reporting and recordkeeping.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 2, 1999.

David A. Ullrich,

Acting Regional Administrator.

40 CFR Part 52, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C 7401–7671q.

Subpart X-Michigan

2. Section 52.1174 is amended by adding paragraph (q) to read as follows:

§ 52.1174 Control strategy: Ozone.

* * * * *

(q) Correction of approved plan—Michigan air quality Administrative Rule, R336.1901 (Rule 901)—Air Contaminant or Water Vapor, has been removed from the approved plan pursuant to section 110(k)(6) of the Clean Air Act (as amended in 1990).

[FR Doc. 99–3837 Filed 2–16–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 61 and 63

[FRL–6233–6]

Approval of the Clean Air Act, Section 112(l), Delegation of Authority to Three Local Air Agencies in Washington; Correction and Clarification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation of authority; correction and clarification.

SUMMARY: This action provides a correction and clarification to a direct final **Federal Register** action published on December 1, 1998 (**see** 63 FR 66054), that granted Clean Air Act, section 112(l), delegation of authority for three local air agencies in Washington to implement and enforce specific 40 CFR parts 61 and 63 federal National Emission Standards for the Hazardous Air Pollutants (NESHAP) regulations which have been adopted into local law. This action corrects several typographical errors in the EPA Action section of the preamble of the December 1, 1998, direct final rule, and also clarifies the extent of that delegation with respect to Indian country.

DATES: This action is effective on February 17, 1999.

ADDRESSES: Copies of the requests for delegation and other supporting documentation are available for public inspection at the following location: U.S. Environmental Protection Agency, Region X, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, WA, 98101.

FOR FURTHER INFORMATION CONTACT: Andrea Wullenweber, US EPA, Region X (OAQ–107), 1200 Sixth Avenue, Seattle, WA, 98101, (206) 553–8760.

SUPPLEMENTARY INFORMATION:

I Administrative Requirements

Under Executive Order (E.O.) 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore, not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655, May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 19, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2)).

II Clarification

On December 1, 1998, EPA promulgated direct final approval of the Washington Department of Ecology (Ecology) request, on behalf of three local air agencies, for program approval and delegation of authority to implement and enforce specific 40 CFR parts 61 and 63 federal NESHAP regulations which have been adopted into local law (as apply to both Part 70 and non-Part 70 sources). The three local air agencies that will be implementing and enforcing these regulations are: the Northwest Air Pollution Authority (NWAPA); the Puget Sound Air Pollution Control Agency (PSAPCA); and the Southwest Air Pollution Control Authority (SWAPCA). In the direct final rule and delegation of authority, an explanation of the applicability of that action to sources and activities located in Indian country was inadvertently omitted. Beginning on page 66054, in the issue of Tuesday, December 1, 1998, make the following correction, in the EPA Action section of the preamble, at the end of the Delegation of Specific Standards subsection. On page 66057, in the second column, after the first paragraph, add the following statement:

''The delegation approved by this rule for NWAPA, PSAPCA, and SWAPCA to implement and enforce NESHAPs does not extend to sources or activities located in Indian country, as defined in 18 U.S.C. 1151. Consistent with previous federal program approvals or delegations, EPA will continue to implement the NESHAPs in Indian country because the local air agencies did not adequately demonstrate their authority over sources and activities located within the exterior boundaries of Indian reservations and other areas in Indian country.

The one exception to this limitation is within the boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local agencies, such as PSAPCA, authority over activities on non-trust lands within the 1873 Survey Area. After consulting with the Puyallup Tribe of Indians, EPA's delegation in this rule applies to sources and activities on non-trust lands within the 1873 Survey Area. Therefore, PSAPCA will implement and enforce

the NESHAPs on these non-trust lands within the 1873 Survey Area.''

III. Correction

In the December 1, 1998, direct final rule and delegation of authority for the three local air pollution control agencies in Washington, there were several minor typographical errors in the EPA Action section of the preamble, in the Delegation of Specific Standards subsection. Beginning on page 66054, in the issue of Tuesday, December 1, 1998, make the following corrections:

On page 66056, in the second column, in the last paragraph, in the eighth line; in the third column, in the first line under the table; and on page 66057, in the first column, in the last paragraph, in the eleventh line, ''63.6(I)(1)'' should read ''63.6(i)(1)''. On page 66056 in footnote number three, in the first line, ''112(I)(1) and (3)'' should read, ''112(i)(1) and (3)''. On page 66057, in the first column, in the last paragraph, in the eighteenth line, ''(63.7(e)(2)(I))'' should read, ''(63.7(e)(2)(i))'.

List of Subjects

40 CFR Part 61

Environmental protection, Air pollution control, Arsenic, Asbestos, Benzene, Beryllium, Hazardous substances, Mercury, Reporting and recordkeeping requirements, Vinyl Chloride.

40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: February 1, 1999.

Chuck Clarke,

Regional Administrator, Region X.

[FR Doc. 99–3526 Filed 2–16–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300789; FRL 6059–7]

RIN 2070–AB78

Fenbuconazole; Reestablishment of Time-Limited Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for combined residues of fenbuconazole [alpha-(2-(4-chlorophenyl)-ethyl)-alpha-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile] and its metabolites [cis-and trans-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*1,2,4-triazole-1-ylmethyl)-2-3*H*-furanone] of fenbuconazole in or on stone fruits (except plums and prunes) at 2.0 ppm, pecans at 0.1 ppm and bananas at 0.3 ppm. The Rohm and Haas Company requested these tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (Pub. L. 104–170). The tolerances will expire on December 31, 2001.

DATES: This regulation is effective February 17, 1999. Objections and requests for hearings must be received by EPA on or before April 19, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300789], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300789], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300789]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 247, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–7740; e-mail: cynthia giles-parker@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 7, 1998; (63 FR 67476) (FRL 6047–2), EPA, issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide petition (PP) for tolerance by The Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19106–2399. This notice included a summary of the petition prepared by The Rohm and Haas Company, the registrant. There were no comments received in response to the notice of filing. The petition requested that 40 CFR 180.480 be amended by establishing time-limited tolerances for combined residues of the fungicide fenbuconazole, [alpha-(2-(4-chlorophenyl)-ethyl)-alpha-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile] and its metabolites [cis-and trans-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*1,2,4-triazole-1-ylmethyl)-2-3*H*-furanone]] expressed as fenbuconazole, in or on stone fruits (except plums and prunes), 2.0 ppm; pecans, 0.1 ppm; bananas, 0.3 ppm part per million (ppm). The existing time-limited tolerances expired December 31, 1998. The reestablishment of these time-limited tolerances will expire on December 31, 2001. Time-limited tolerances are being reestablished due to a chemistry data gap for storage stability in other raw agricultural commodities. However, based on apparent storage stability, EPA believes that the existing data support reestablishment of time-limited tolerances to December 31, 2001.

I. Background and Statutory Findings

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section

408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of Fenbuconazole, [alpha-(2-(4-chlorophenyl)-ethyl)-alpha-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile] and its metabolites [cis-and trans-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*1,2,4-triazole-1-ylmethyl)-2-3*H*-furanone]] and to make a determination on aggregate exposure, consistent with section 408(b)(2), for reestablishment of time-limited tolerances for combined residues of Fenbuconazole, [alpha-(2-(4-chlorophenyl)-ethyl)-alpha-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile] and its metabolites [cis-and trans-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*1,2,4-triazole-1-ylmethyl)-2-3H-furanone]] on stone fruit (except plums and prunes), 2.0 ppm; pecans, 0.1 ppm; and bananas, 0.3 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by Fenbuconazole are discussed in this unit.

1. A rat acute oral study with an LD_{50} greater than 2 grams (g)/kilogram (kg).

2. A 13-week rat feeding study with a no-observed-adverse-effect-level (NOAEL) of 20 ppm (1.3 milligrams(mg)/kg/day males and 1.5 mg/kg/day females) and a lowest-observed-adverse-effect-level (LOAEL) of 80 ppm (5.1 mg/ kg/day males and 6.3 mg/kg/day females), based on hepatotoxicity.

3. A 3-month mouse feeding study with a NOAEL of 20 ppm (3.8 mg/kg/day males and 5.7 mg/kg/day females) and a LOAEL of 60 ppm (11.1 mg/kg/day males and 17.6 mg/kg/day females) based on hepatotoxicity.

4. A 3-month dog feeding study with a NOAEL of 100 ppm (3.3 mg/kg/ day males and 3.5 mg/kg/day females) and LOAEL of 400 ppm (13.3 mg/kg/ day males and 14.0 mg/kg/day females), based on hepatocellular hypertrophy.

5. A 21-day rabbit dermal study with a NOAEL greater than 1,000 mg/ kg/day (limit dose).

6. A 78-week dietary carcinogenicity study in mice with a NOAEL of 1.43 mg/kg/day and a LOAEL of 28.6 mg/kg/day (males) and 92.9 mg/kg/day (females) based on hepatocellular enlargement and a greater incidence and severity of hepatocellular vacuolation. There was evidence of carcinogenicity based on the occurrence of increased trend for malignant liver tumors in males and an increase in benign and malignant liver tumors in females.

7. A 24-month rat chronic feeding/carcinogenicity study with a NOAEL of 40 ppm (3.03 mg/kg/day for females and 4.02 mg/kg/day for males) for systemic effects and a LOAEL of 800 ppm (30.62 mg/kg/day for males and 43.07 mg/kg/day for females) based on decreases in body weight gains and hepatocellular enlargement and vacuolization in females, and thyroid weight and histopathological changes in both sexes. There was evidence of carcinogenicity based on the increased occurrence of thyroid follicular cell benign and malignant tumors in males.

8. A 24-month male rat chronic feeding/carcinogenicity study with a NOAEL of 800 ppm (30.41 mg/kg/day) and a LOAEL of 1,600 ppm (63.94 mg/kg/ day) based on increased liver and thyroid weights and lesions. There was evidence of carcinogenicity based on the increased occurrence of thyroid follicular cell benign and malignant tumors.

9. A 1-year dog chronic feeding study with a NOAEL of 150 ppm (3.75 mg/kg/day). The LOAEL is based on decreases in body weight gain and increased liver weight, at 1,200 ppm (30 mg/kg/day).

10. A 2-generation reproduction study in rats with a parental (systemic) and reproductive NOAEL of 4 mg/kg/day (80 ppm) and a LOAEL of 40 mg/kg/day (800 ppm), based on decreased body weight and food consumption, increased number of dams not delivering viable or delivering nonviable offspring, and increases in adrenal and thyroid/parathyroid weights.

11. A developmental toxicity study in rabbits with a maternal NOAEL of 10 mg/kg/day, and a developmental NOAEL of 30 mg/kg/day, and a maternal LOAEL of 60 mg/kg/day due to only 1/19 (5) of the pregnant does producing a viable fetus and no developmental LOAEL (greater than 30 mg/kg/day).

12. A developmental toxicity study in rats with a maternal NOAEL and developmental NOAEL of 30 mg/kg/day and an LOAEL of 75 mg/kg/day due to decrease in maternal body weight compared to controls and increase in early and late resorption with a decrease in number of live fetuses per dam.

13. No evidence of gene mutation was observed in a test for induction of gene mutation at the HGPRT locus in Chinese hamster ovary cells. No increase in the number of cells with aberrations or observations per cell were noted in an in vivo cytogenetics assay using bone marrow from treated rats. No increase in unscheduled DNA synthesis in rat primary hepatocyte study was observed.

14. A rat metabolism study showed that radiolabeled fenbuconazole is rapidly absorbed, distributed, and excreted following oral administration in rats. Biliary excretion data indicated that systemic absorption of fenbuconazole was high for all dosing groups. The feces was the major route of excretion. Tissue distribution and bioaccumulation of fenbuconazole appeared to be minimal.

B. Toxicological Endpoints

1. *Acute toxicity*. For an acute dietary risk assessment a Reference Dose (acute RfD) of 0.3 mg/kg/day was established for females 13+ years, the population subgroup of concern, based on the developmental toxicity study in the rat with a NOAEL of 30 mg/kg/day based on an increase in post implantation loss with a significant decrease in the number of live fetuses per dam at the LOAEL of 75 mg/kg/day and an uncertainty factor of 100. EPA determined that the 10X factor required by FQPA for protection of infants and children from exposure to fenbuconazole should be removed since:

i. The toxicology data base is complete.

ii. There is no indication of increased susceptibility of rats or rabbit fetuses to in utero and/or postnatal exposure in the developmental and reproductive toxicity studies.

iii. Dietary (food) exposure estimates are slightly refined (using limited %CT data for stone fruit) but likely result in

an overestimate of the actual dietary exposure.

iv. Models are used for ground and surface source drinking water exposure assessments resulting in estimates that are upper-bound concentrations.

v. There are currently no registered residential uses for fenbuconazole and therefore, this type of exposure to infants and children is not expected.

2. *Short - and intermediate - term toxicity*. Short- and intermediate-term endpoints were not identified; therefore, an aggregate risk assessment was not done for these endpoints. Furthermore, fenbuconazole has no residential uses.

3. *Chronic toxicity*. The Reference Dose (chronic RfD) of 0.03 mg/kg/day was re-affirmed by the Hazard Identification Assessment Review Committee (HIARC) based on the chronic toxicity study in the rat with a NOAEL of 3.03/4.02 mg/kg/day in males/females based on decreased body weight gains (females), hepatocellular enlargement and vacuolation (females), increases in thyroid weight (both sexes) and histopathological lesions in the thyroid glands (males), at the LOAEL of 30.62/43.04 mg/kg/day in males/females and an uncertainty factor of 100.

4. *Carcinogenicity*. The Health Effects Division Carcinogenicity Peer Review Committee has concluded that the available data provide limited evidence of the carcinogenicity of fenbuconazole in mice and rats and has classified fenbuconazole as a Group C (possible human carcinogen with limited evidence of carcinogenicity in animals) in accordance with Agency guidelines, published in the **Federal Register** in 1986 (51 FR 33992, Sept. 24, 1986) and recommended that for the purpose of risk characterization a low-dose extrapolation model applied to the experimental animal tumor data should be used for quantification for human risk (Q1*). This decision was based on the induction of thyroid follicular cell adenomas and/or combined adenomas-carcinomas in male rats in two studies, both by pair-wise comparison with controls and by trend analysis. The studies were combined for the purpose of deriving the Q1*. The Q1* for fenbuconazole is 3.59 x 10^{-3} (mg/kg/day)$^{-1}$ in human equivalents.

C. Exposures and Risks

1. *From food and feed uses*. Time-limited tolerances have been established (40 CFR 180.480) for the combined residues of fenbuconazole, [alpha-(2-(4-chlorophenyl)-ethyl)-alpha-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile] and its metabolites [cis-and trans-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*1,2,4-triazole-1-ylmethyl)-2-3*H*-furanone]] in/on stone fruits (except plums prunes), bananas (banana pulp), pecans, and blueberries. Risk assessments were conducted by EPA assessing dietary exposures from fenbuconazole as follows:

i. *Acute exposure and risk*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. In conducting this acute dietary risk assessment, very conservative assumptions were used which resulted in an overestimate of human dietary exposure. The following assumptions have been made: 100% of the crops are treated and residues will be at the tolerance levels. These assumptions result in a conservative risk estimate; refinement using anticipated residue values and percent crop-treated data in conjunction with Monte Carlo analysis would result in a lower acute dietary exposure estimate. Thus, in making a safety determination for these tolerances, the Agency is taking into account this conservative exposure assessment.

The Novigen Dietary Exposure Evaluation Model (DEEM) system was used for this acute dietary exposure analysis. The analysis evaluates individual food consumption as reported by respondents in the USDA Continuing Surveys of Food Intake by Individuals conducted in 1989 through 1992. The model accumulates exposure to the chemical for each commodity and expresses risk as a function of dietary exposure.

The acute dietary (food only) risk assessment used Theoretical Maximum Residue Contribution (TMRC). The resulting high-end exposure estimate for females, ≧ 13 years old ranges from 0.0072 to 0.015 mg/kg/day for the population subgroup females, ≧ 13 years old (nursing), and females, 13 to 19 years old (not pregnant or nursing), respectively . These exposure levels utilize 2.3% to 5.0% of the Acute RfD, respectively.

ii. *Chronic exposure and risk*. In conducting this chronic dietary risk assessment, the Agency has made a partially refined exposure estimate. Tolerance level residues were assumed for all commodities, including stone fruits. Percent crop treated data were used for stone fruits and 100% crop treated data were assumed for all other commodities. The percent crop treated data for stone fruits were based upon a production cap. For additional refinement, incorporation of percent crop treated and anticipated residues for all commodities would result in lower exposure estimates. The Novigen DEEM system was used for this chronic dietary exposure analysis. The analysis evaluates individual food consumption as reported by respondents in the USDA Continuing Surveys of Food Intake by Individuals conducted in 1989 through 1992. The model accumulates exposure to the chemical for each commodity and expresses risk as a function dietary exposure.

The existing fenbuconazole tolerances (published, pending, and including the necessary section 18 tolerance(s)) result in an anticipated residue contribution (ARC) that is equivalent to the following percentages of the chronic RfD: U.S. population (48 States), < 1%; all infants (< 1 year old), 2.5%; nursing Infants (< 1 year old), 1.1%; non-nursing infants, 3.1%; children (1–6 years old), 1.5%; children (7–12 years old) < 1.0%; non-hispanic (other than black or white), 1.0%; seniors 1.0%.

The subgroups listed above are: (1) the U.S. population (48 states); (2) those for infants and children; and, (3) the other subgroups for which the percentage of the RfD occupied is greater than that occupied by the subgroup U.S. population (48 states).

Fenbuconazole is classified as a group C carcinogen (Q1*=.00359 (mg/kg/day). Using the partially refined exposure estimates described above, the cancer risk estimate for the U.S. population (48 states) is 8.3 x 10^{-7}.

2. *From drinking water*. In the absence of reliable, available monitoring data, EPA uses models to estimate concentrations of pesticides in ground and surface water. For fenbuconazole, modeling was used to estimate surface water concentrations because of very limited surface water monitoring data. However, EPA does not use these model estimates to quantify risk. Currently, EPA uses drinking water levels of comparison (DWLOC's) as a surrogate to capture risk associated with exposure to pesticides in drinking water. A DWLOC is the concentration of a pesticide in drinking water that would be acceptable as an upper limit in light of total aggregate exposure to that pesticide from food, water and residential uses. A DWLOC will vary depending on the residue level in foods, the toxicity endpoint and with drinking water consumption patterns and body weights for specific subpopulations. EPA believes model estimates to be overestimates of concentrations of fenbuconazole expected in drinking water.

Fenbuconazole is moderately persistent to persistent and slightly mobile to immobile in soil. Because of its adsorption to soil, the potential for

fenbuconazole to leach to ground water appears to be slight. However, the potential to contaminate ground water may be greater at vulnerable sites (i.e. where soils are low in organic matter and where ground water is relatively close to the surface). The long half-lives of the aerobic soil and terrestrial field dissipation studies indicate that when fenbuconazole is applied over multiple growing seasons, soil residue accumulation may result. These residues may be available for rotational crop uptake or may be transported with sediments during runoff events. There are no established Maximum Contaminant Level for residues of fenbuconazole in drinking water, and no health advisory levels for fenbuconazole in drinking water have been established.

i. *Acute exposure and risk*. Acute DWLOC for drinking water were calculated using the default body weights and drinking water consumption figures. Based on an adult female body weight of 60 kg and 2L consumption of water per day, level of comparison from acute exposure estimates for females 13 years and older, is 8,600 ppb. The peak EEC (acute) value of 6.7 ppb for aerial application is lower than, the acute DWLOCs for females 13 years and older (8,600 ppb).

ii. *Chronic exposure and risk*. Based on the chronic dietary (food) exposure and using default body weights and water consumption figures, chronic drinking water levels of comparison (DWLOC) for drinking water were calculated. The level of comparison from chronic exposure estimates for males is 1,000 ppb, 890 ppb for females and 290 ppb for infants and children. The chronic EEC, GENEEC 56-day, value of 3.6 ppb for aerial application is lower than, the chronic DWLOCs for males 1,000 ppb, females 890 ppb, and infants and children 290 ppb.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: That the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; that the exposure estimate does not underestimate exposure for any significant subpopulation group; and if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent of crop treated as required by the section 408(b)(2)(F), EPA may require registrants to submit data on percent of crop treated.

The Agency used percent crop treated (PCT) information as follows: Percent crop treated data were used only for stone fruits, in conducting the chronic risk assessment. For all other commodities it was assumed that 100% of the crop would be treated. The Agency believes that the three conditions listed in Units II, C1 i-iii of this preamble have been met. With respect to Unit II, C1 i of this preamble, percent of crop treated estimates are derived from federal and private market survey data, which are reliable and have a valid basis. The assumption is that stone fruit residues (except plums and prunes) are at the tolerance level and the limitation of production of the only fenbuconazole product registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for use on stone fruit to 28,500 pounds of active ingredient per year (calculated to be equivalent to treating 12.812f the total U.S. acreage of apricots, cherries, nectarines, and peaches per year). Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimated. As to Units II, C1ii, and iii of this preamble, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which fenbuconazole may be applied in a particular area.

3. *From non-dietary exposure*. Currently fenbuconazole has no registered residential non-food sites uses. No dermal or systemic toxicity was observed in the short- or intermediate term studies. Therefore, no endpoints were established and a risk assessment for residential non-dietary exposure was not needed.

4. *Cumulative exposure to substances with common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency considers ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether fenbuconazole has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, fenbuconazole does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fenbuconazole has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the Final Rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk*. Toxicological effects applicable to population subgroups other than females 13 years old or older that could be attributed to a single exposure (dose) were not observed in oral toxicity studies in rats and rabbits. Therefore, a dose and endpoint was not identified for acute dietary risk assessment for these population groups.

The population subgroup of concern for acute risk is females, 13 years and older. The acute dietary (food only) risk assessment used TMRC. The resulting high-end exposure estimates (food only) for females, ≧ 13 years old, ranges from 0.0072 to 0.015 mg/kg/day for the population subgroups females, ≧13 years old (nursing), and females, 13 to 19 years old (not pregnant or nursing), respectively. These exposure levels utilize 2.3% to 5.0% of the Acute RfD, respectively. Based on the acute dietary (food only) exposure, acute DWLOCs were calculated. To calculate the acute DWLOCs, the acute dietary food exposure (from the DEEM analysis) was subtracted from the Acute RfD to give the maximum allowable exposure level for drinking water. DWLOCs were then calculated using default body weights

and drinking water consumption figures. The estimated peak concentration of fenbuconazole in surface water (6.7 µg/L) is less than the level of comparison for fenbuconazole in drinking water as a contribution to acute aggregate exposure (8.6×10^3 µg/L). Therefore, taking into account the registered uses and uses proposed, it is concluded with reasonable certainty that residues of fenbuconazole in drinking water (when considered along with other sources of acute exposure for which the Agency has reliable data) would not result in unacceptable levels of acute aggregate human health risk estimates for females, 13 years old and older, at this time.

The Agency generally has no concern for exposures below 100% of the acute RfD (when the FQPA Safety Factor has been removed, as is the case for fenbuconazole) because the acute RfD represents the level at or below which a single daily exposure will not pose appreciable risks to human health. The acute aggregate exposure is not expected to exceed 100% of the acute RfD for the subpopulation of concern (females 13 years and older). It is concluded that there is a reasonable certainty that no harm will result to females (13 years and older) from acute aggregate exposure to fenbuconazole residues.

2. *Chronic risk*. Using the conservative ARC exposure assumptions described above, and taking into account the completeness and reliability of the toxicity data, it was determined that chronic dietary exposure to fenbuconazole from food will utilize from <1.0% to 1.0% of the chronic RfD for the population subgroups which include adults (U.S. population (48 States) and non-hispanics (other than black or white), respectively). Based on the chronic dietary (food only) exposure, chronic (non-cancer) DWLOCs were calculated. To calculate the chronic DWLOCs, the chronic dietary food exposure (from the DEEM analysis) was subtracted from the chronic RfD to give the maximum allowable exposure level for drinking water. DWLOCs were then calculated using the default body weights and drinking water consumption figures. The estimated 56-day concentration of fenbuconazole in surface water (3.6 µg/L) is less than the levels of comparison for fenbuconazole in drinking water as a contribution to chronic aggregate exposure (1.0×10^3 µg/L and 8.9×10^2 µg/L for males and females, respectively). Therefore, taking into account the registered uses and uses proposed, it is concluded with reasonable certainty that residues of fenbuconazole in drinking water (when considered along with other sources of chronic exposure for which there is reliable data) would not result in unacceptable levels of chronic aggregate human health risk estimates for adult population subgroups.

The Agency generally has no concern for exposures below 100% of the chronic RfD (when the FQPA Safety Factor has been removed, as is the case for fenbuconazole) because the chronic RfD represents the level at or below which average daily life-time exposure will not pose appreciable risks to human health. Despite the potential for exposure to fenbuconazole in drinking water, the chronic aggregate exposure is not expected to exceed 100% of the chronic RfD for population subgroups which include adults.

3. *Short- and intermediate-term risk*. Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Short- and intermediate-term endpoints were not identified; therefore, an aggregate risk assessment was not done for these endpoints. Furthermore, fenbuconazole has no residential uses.

4. *Aggregate cancer risk for U.S. population*. Fenbuconazole has been classified as a Group C Carcinogen with a Q_1^* of 3.59×10^{-3} (0.00359 (mg/kg/day)$^{-1}$).

The existing fenbuconazole tolerances (published, pending, and including the necessary section 18 tolerance(s)) result in a cancer risk estimate of 8.3×10^{-7} for the U.S. population (48 States). Based on the cancer dietary (food only) exposure and using default body weights and water consumption figures, a cancer DWLOC was calculated. To calculate the cancer DWLOC, the negligible risk level (1×10^{-6}) is divided by the Q_1^* to give the maximum allowable exposure (food plus water). The chronic food exposure was subtracted from the maximum allowable exposure (from the DEEM analysis) to give the maximum allowable exposure level for drinking water. The DWLOC was then calculated using the default body weight and drinking water consumption figure. The estimated 56–day concentration of fenbuconazole in surface water (3.6 µg/L) is less than three times the level of comparison ($3 \times 1.6 = 4.8$ µg/L) for fenbuconazole in drinking water as a contribution to chronic (cancer) aggregate exposure. Therefore, taking into account the registered uses and uses proposed, it is concluded with reasonable certainty that residues of fenbuconazole in drinking water (when considered along with other sources of chronic (cancer) exposure for which there is reliable data) would not result in unacceptable levels of cancer aggregate human health risk estimates for the U.S. population (48 States). The chronic food exposure estimate is partially refined. Further refinement of the food exposure would result in a lower exposure estimate and result in a higher DWLOC.

The Agency generally has no concern for exposures that result in a cancer risk estimate below 1×10^{-6}. Despite the potential for exposure to fenbuconazole in drinking water, the Agency does not expect the chronic (cancer) aggregate exposure to exceed 1×10^{-6} for the U.S. population (48 States). It is concluded that there is a reasonable certainty that no harm will result to the U.S. population (48 States) from chronic aggregate exposure to fenbuconazole residues.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to residues of fenbuconazole.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*—i. *In general*. In assessing the potential for additional sensitivity of infants and children to residues of fenbuconazole, EPA considered data from developmental toxicity studies in the rat and rabbit as well as a 2–generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing fetus resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide, on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (usually 100 for combined inter- and intra-species variability)) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and

when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

The Agency has determined that the FQPA Safety Factor (for enhanced sensitivity of infants and children as required by the Food Quality Protection Act of 1996) should be removed for this active ingredient.

ii. *Developmental toxicity studies*—a. *Rats*. In the developmental toxicity study in rats, the maternal (systemic) NOAEL was 30 mg/kg/day, based on decreases in body weight and body weight gain at the LOAEL of 75 mg/kg/day. The developmental (fetal) NOAEL was 30 mg/kg/day, based on an increase in post implantation loss and a significant decrease in the number of live fetuses per dam at the LOAEL of 75 mg/kg/day.

b. *Rabbits*. In the developmental toxicity study in rabbits, the maternal (systemic) NOAEL was 10 mg/kg/day, based on decreased body weight gain at the LOAEL of 30 mg/kg/day. The developmental (pup) NOAEL was 30 mg/kg/day, based on increased resorptions at the LOAEL of 60 mg/kg/day.

iii. *Reproductive toxicity study—Rats*. In the 2–generation reproductive toxicity study in rats, the parental (systemic) NOAEL was 4 mg/kg/day, based on decreased body weight and food consumption, increased number of dams not delivering viable or delivering nonviable offspring, and increases in adrenal and thyroid weights at the LOAEL of 40 mg/kg/day. The reproductive (pup) NOAEL was 40 mg/kg/day, the highest dose tested.

iv. *Pre- and post-natal sensitivity*. The toxicological data base for evaluating pre- and post-natal toxicity for fenbuconazole is complete with respect to current data requirements. Based on the developmental and reproductive toxicity studies there is no increased susceptibility of rats or rabbits to in utero and/or postnatal exposure to fenbuconazole. In the developmental toxicity studies in rats and rabbits as well as the 2–generation reproduction study in rats, toxicity to the fetuses/offspring, when observed, occurred at equivalent or higher doses and was not judged to be more severe than in the maternal/parental animals.

v. *Conclusion*. There is a complete toxicity database for fenbuconazole and exposure data is complete or is estimated based on data that reasonably accounts for potential exposures. EPA determined that it was safe for infants and children to remove the FQPA safety factor sine:

i. The toxicology data base is complete.

ii. There is not indication of increased susceptibility of rats or rabbit fetuses to *in utero* and/or postnatal exposure in the developmental and reproductive toxicity studies.

iii. Dietary (food) exposure estimates are slightly refined (using limited %CT data for stone fruit) but likely result in an overestimate of the actual dietary exposure.

iv. EFED models are used for ground and surface source drinking water exposure assessments resulting in estimates that are upper-bound concentrations.

v. There are currently no registered residential uses for fenbuconazole and therefore, this type of exposure to infants and children is not expected.

2. *Acute risk*. Toxicological effects relevant to infants and children that could be attributed to a single exposure (dose) were not observed in oral toxicity studies including the developmental toxicity studies in rats and rabbits. A dose and endpoint was not identified; therefore, this subpopulation is not expected to face any appreciable acute risk.

3. *Chronic risk*. Using the conservative exposure assumptions described above, EPA has concluded that chronic exposure to fenbuconazole from food will utilize 3.1% for non-nursing infants less than 1 year old, 2.5% for all infants (<1 year old), 1.5% for children (1–6 years old), 1.1% for nursing infants (<1 year old), 1% for non-hispanic (other than black or white), 1% for seniors (>55 years old) and <1% for children (7–12 years old) of the chronic RfD. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Base on chronic dietary exposure, a chronic (non-cancer) drinking water level of comparison (DWLOC) was calculated to be 2.9 x 10 for non-nursing infants (<1 year old). The estimated 56–day concentration of fenbuconazole in surface water (3.6 µg/L) is less than the Agency's levels of comparison for fenbuconazole in drinking water as a contribution to chronic aggregate exposure (1.0×10^3 µg/L and 8.9×10^2 µg/L for males and females, respectively). It is concluded with reasonable certainty that residues of fenbuconazole in drinking water (when considered along with other sources of chronic exposure data) would not result in unacceptable levels of chronic aggregate human health risk estimates for the population subgroups.

4. *Short- or intermediate-term risk*. There are no residential uses. No short and intermediate term aggregate exposure end points were identified, therefore EPA concluded that fenbuconazole did not pose a short or intermediate term risk.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to fenbuconazole residues.

III. Other Considerations

A. Metabolism In Plants and Animals

1. The nature of the residue in plants is adequately understood. The residue of concern is fenbuconazole, [alpha-(2-(4-chlorophenyl)-ethyl)-alpha-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile] and its metabolites [cis-and trans-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*1,2,4-triazole-1-ylmethyl)-2-3*H*-furanone], as specified in 40 CFR 180.480.

2. As no livestock feed items are associated with this request, the nature of the residue in livestock is not of concern.

B. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. This method involves extraction of parent and metabolites into solvent followed by concentration, clean up, separation by GC, and detection with a nitrogen phosphorus detector. This method was submitted for inclusion in PAM II. The method may be requested from: Calvin Furlow, PIRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 101FF, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703–305–5229).

C. Magnitude of Residues

Fenbuconazole, [alpha-(2-(4-chlorophenyl)-ethyl)-alpha-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile] and its metabolites [cis-and trans-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*1,2,4-triazole-1-ylmethyl)-2-3*H*-furanone] expressed as fenbuconazole are not expected to exceed the tolerance levels. Tolerances levels in/on bananas are based on the highest residues resulting from applications to both bagged and unbagged bananas. Additional crop field trial data submitted as a condition of registration support reestablishment of time-limited tolerance for whole bananas. These data showed that level for residues in banana

pulp was exceeded in these field trials. Based on field data, EPA is not reestablishing a separate tolerance on banana pulp.

D. International Residue Limits

There are no CODEX, Canadian, or Mexican Maximum Residue Limits (MRL) for fenbuconazole on pecans, bananas and the crop group stone fruit (except prunes and plums).

E. Rotational Crop Restrictions

Rotational crop restrictions are not applicable since pecans, bananas and stone fruit (except prunes and plums), are not routinely rotated.

IV. Conclusion

Therefore the time-limited tolerances are reestablished and amended for combined residues of fenbuconazole, [alpha-(2-(4-chlorophenyl)-ethyl)-alpha-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile] and its metabolites [cis- and trans-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*1,2,4-triazole-1-ylmethyl)-2-3*H*-furanone] in or on [stone fruits (except plums and prunes) at 2.0 ppm, pecans at 0.1 ppm and bananas at 0.3] ppm.

V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by April 19, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this regulation. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VI. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300789] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. Objections and hearing requests may be sent by e-mail directly to EPA at: opp-docket@epa.gov. e-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

VII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specficed by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance/exemption in this final rule, do not require the issuance of a proposed rule, the

requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule. VIII. Submission to Congress and the Comptroller General.

VIII. Submission of Report to Congress and Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 2, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180 — [AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371

2. In §180.480, by revising paragraph (a)(1) to read as follows:

§ 180.480 Fenbuconazole; tolerances for residues.

(a) *General.* (1) Time-limited tolerances, to expire on December 31, 2001, are reestablished for combined residues of the fungicide fenbuconazole [*alpha*-[2-(4-chlorophenyl)-ethyl]-*alpha*-phenyl-3-(1*H*-1,2,4-triazole)-1-propanenitrile] and its metabolites, *cis*-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl)-2-3*H*-furanone and *trans*-5-(4-chlorophenyl)dihydro-3-phenyl-3-(1*H*-1,2,4-triazole-1-ylmethyl-2-3*H*-furanone, expressed as fenbuconazole, in or on the following raw agricultural commodities:

Commodity	Parts per million	Expiration/ revocation date
Bananas (whole fruit) ...	0.3	12/31/01
Pecans	0.1	12/31/01
Stone fruit crop group (except plums and prunes)	2.0	12/31/01

* * * * *

[FR Doc. 99–3519 Filed 2–16–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300769; FRL–6049–9]

RIN 2070–AB78

Cinnamaldehyde; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of the biochemical cinnamaldehyde in or on all food commodities when applied as a broad spectrum fungicide/insecticide/algaecide in accordance with good agricultural practices. The Interregional Research Project No. 4 (IR-4) submitted a petition to EPA on behalf of Proguard, Inc., under the Federal Food, Drug and Cosmetic Act as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) requesting the exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of cinnamaldehyde. The Agency also removes the mushroom- specific

tolerance exemption for cinnamaldehyde (40 CFR 180.1156) and considers this tolerance to be reassessed, as required by the FQPA.

DATES: This regulation is effective February 17, 1999. Objections and requests for hearings must be received by EPA on or before April 19, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300769], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees) and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300769], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP–300769]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Diana M. Horne, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 902, Crystal Mall #2 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 308–8367; e-mail: horne.diana@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 28, 1998 (63 FR 46017) (FRL–6024–4), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide tolerance petition (PP 7E4904) by the Interregional Research Project No. 4 (IR-4), on behalf of Proguard, Inc. This notice included a summary of the petition prepared by the petitioner and this summary contained conclusions and arguments to support its conclusion that the petition complied with the Food Quality Protection Act (FQPA) of 1996. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of cinnamaldehyde.

I. Risk Assessment and Statutory Findings

New section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(c)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...'' EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide us in residential settings.

A. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

B. Mammalian Toxicology Profile

Acute toxicity. The oral LD_{50} for cinnamaldehyde is greater than 5,000 milligram/kilogram (mg/kg), while the dermal LD_{50} is greater than 2,000 mg/kg. Cinnamaldehyde is also minimally toxic via the inhalation route, since the LC_{50} is greater than 2.09 mg/L. Cinnamaldehyde is a mild skin and eye irritant. All sub-chronic, teratology and mutagenicity testing requirements have been waived since this substance is (1) a biochemical pesticide possessing a low order of toxicity, (2) applied at very low rates, (3) currently used in foods, such as nonalcoholic beverages, ice creams, candy, baked goods, condiments and meats, as a flavoring agent, and (4) considered GRAS (Generally Recognized as Safe) by the FDA. In addition, cinnamon oil (which contains 55-90% cinnamaldehyde is also classified as a GRAS substance and is extensively used in the food and flavoring industry, as well as in perfumery and cosmetic products. Cinnamon oil was also recently exempted from pesticidal regulation under FIFRA section 25(b).

II. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from groundwater or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

1. *Food*. Currently, dietary exposure to cinnamaldehyde occurs from its use as a food flavoring agent, and there exists a tolerance exemption on mushrooms (40 CFR 180.1156). Since flavoring agents are added in very small quantities, dietary exposure is expected to be minimal. In addition, dietary exposure to residues of cinnamaldehyde as a result of uses covered under this tolerance exemption is also expected to be insignificant.

2. *Drinking water exposure.* Cinnamaldehyde residues in drinking water are expected to be minimal due to its low application rate, expected rapid

biodegradation in soil, and its insolubility in water.

B. Other Non-Occupational Exposure

There may be minor amounts of non-dietary exposure to cinnamaldehyde from the use of cinnamon oil in cosmetics and perfumes. Cinnamon oil contains 55-90% cinnamaldehyde. However, cinnamon oil is also classified as a GRAS substance for use as a flavoring agent on food (21 CFR 182.10) and was recently exempt from pesticide regulation under FIFRA section 25(b). Based on the small amount of cinnamaldehyde and cinnamon oil used in these instances, very minimal non-dietary exposure is expected.

III. Cumulative Effects

Because of the low toxicity and use rates of cinnamaldehyde, EPA does not believe that there is any concern regarding the potential for cumulative effects of cinnamaldehyde and other substances that have a common mechanism of toxicity.

IV. Determination of Safety for U.S. Population, Infants and Children

The use of products containing cinnamaldehyde, which is of low toxicity and is used in low concentrations, is compatible with the Agency's objectives to register reduced risk pesticides. Based on its low toxicity, there is reasonable certainty that no harm will result from aggregate exposure of the U.S. population, including infants and children, to residues of cinnamaldehyde. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. An inconsequential increase in dietary exposure is expected to result from the application of cinnamaldehyde to growing crops. Cinnamaldehyde is applied at low rates, and with its proven low toxicity and its history of safe use, does not pose a safety concern.

V. Other Considerations

A. Endocrine Disruptors

There is no evidence to suggest that cinnamaldehyde has any negative impact on the immune system, or is active hormonally.

B. Analytical Method(s)

An analytical method for the detection of residues of cinnamaldehyde is not applicable to this tolerance exemption.

C. Codex Maximum Residue Level

There are no approved CODEX maximum residue levels (MRL's) established for residues of cinnamaldehyde.

VI. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d)and as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which governs the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by April 19, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the hearing clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VII. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300769]. A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above, is kept in paper form. Accordingly, in the event there are objections and hearing request, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

VIII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under FFDCA section 408 (l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any special considerations as required by Executive

Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In additions, since tolerance exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq*.) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq*., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, pesticides and pests, Reporting and recordkeeping requirements.

Dated:January 19, 1999.

Kathleen Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1156 is revised to read as follows:

180.1156 Cinnamaldehyde; exemption from the requirement of a tolerance.

Cinnamaldehyde (3-phenyl-2-propenal) is exempted from the requirement of a tolerance in or on all food commodities, when used as a fungicide, insecticide, and algaecide in accordance with good agricultual practices. The existing tolerance exemption on mushrooms (40 CFR 180.1156) is hereby removed.

[FR Doc. 99–3663 Filed 2–16–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

46 CFR Parts 502, 545 and 571

[Docket No. 98–21]

Miscellaneous Amendments to Rules of Practice and Procedure

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is making corrections and changes to existing regulations to update and improve them, and to conform them to and implement the Ocean Shipping Reform Act of 1998. This rule modifies part 502 (Rules of Practice and Procedure) and redesignates part 571 as part 545 (Interpretations and Statements of Policy).

DATES: Effective May 1, 1999.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol St., NW., Room 1046, Washington, DC 20573–0001, (202) 523–5725, E-mail: secretary@fmc.gov.

SUPPLEMENTARY INFORMATION:

The Ocean Shipping Reform Act of 1998 (''OSRA''), Pub. L. 105–258, 112 Stat. 1902, which made numerous changes to the Shipping Act of 1984 (''1984 Act''), Pub. L. 98–237, 98 Stat. 67 (46 U.S.C. app. secs. 1701 through

1720), was enacted on October 14, 1998, and becomes effective on May 1, 1999. Among other things, OSRA authorizes the Commission to prescribe implementing rules and regulations. Accordingly, the Federal Maritime Commission published a notice of proposed rulemaking on December 2, 1998, 63 FR 66512, to redesignate part 571 as part 545 and amend parts 502 and 545 of the Commission's rules.

The Commission received comments in response to the proposed rule from the National Industrial Transportation Leagues (''NIT League''), the Council of European and Japanese National Shipowners'' Associations (''CENSA''), the Maritime Administrative Bar Association (''MABA''), Fruit Shippers Ltd., and jointly from American President Lines, Ltd. and APL Co. Pte Ltd (''APL'').

CENSA and NIT League both commented on proposed § 502.67, which implements the exemption provision in section 16 of the 1984 Act. Section 16 provides:

> ''(t)he Commission, upon application or on its own motion, may by order or rule exempt for the future any class of agreements between persons subject to this Act or any specified activity of those persons from any requirement of this Act * * *.''

CENSA objects to the proposed rule because it perceives that by moving § 502.67 from part 572 to part 502, the Commission has made exemptions generally available to matters other than agreements. CENSA claims this goes beyond the Commission's exemption power. It is true that the Commission's rules have heretofore addressed exemption procedures only within the agreement provisions currently within part 572. However, section 16 has always authorized the Commission to exempt persons subject to the 1984 Act from any of its requirements, and the Commission has indeed granted isolated exemptions from such matters as tariff filing requirements, when the statutory standards were met. OSRA did not preclude the application of section 16 to any provision or requirement of the 1984 Act. OSRA simply changed the standards that must be met in order to grant an exemption. The new standard requires that a proposed exemption not result in substantial reduction in competition or be detrimental to commerce. The proposed rule located the procedure for requesting an exemption in § 502.67, and that procedure is applicable to all exemption requests, consistent with our statutory authority, not only agreement exemption requests.

NIT League also objects to proposed § 502.67. NIT League points out that the use of the word ''may'' in the first sentence of proposed § 502.67 could be read to mean that the Commission may decide not to grant an exemption even if a requested exemption meets the standards of section 16 of the 1984 Act. NIT League proposes language requiring that the Commission grant an exemption whenever it finds the standards have been met. NIT League proposes to change the word ''may'' to ''shall,'' so that the rule would read, ''The Commission * * * shall * * * exempt * * *.'' However, section 16 does not mandate that the Commission grant exemptions. It specifically contains the word ''may'' and not the word ''shall,'' thus making clear that the decision whether to grant an exemption is discretionary. The proposed rule mirrors the 1984 Act, as amended by OSRA, in this respect. Hence, NIT League's assertion that the Commission must grant an exemption when it finds a requested exemption will not result in substantial reduction in competition or be detrimental to commerce is not consistent with section 16, and the Commission therefore declines to modify proposed § 502.67.

MABA commented extensively on the proposed rules concerning service of process, length of briefs, incorporation of the Model Rules of Professional Conduct, the length and cost of proceedings, and the use of promissory notes in payment of penalties. MABA strongly objects to changes proposed to § 502.113 which would allow for a complainant to effect service when the Secretary is not successful in obtaining service by mail. MABA claims that the proposed amendment shifts the burden of service from the Commission to private litigants. However, the proposed modification would merely allow for service by the complainant as a viable option. Historically, the Secretary serves complaints by mail, and will continue to do so. Currently, the Commission's complaint filing rules require the complaint to specify the name and address of each respondent. It is necessary for the complainant to provide the address for each respondent so that the complaint may be served by mail. Sometimes, however, a respondent cannot be located at the provided address and the complaint ends up being returned. At such times, the Secretary works with the complainant to attempt to locate the respondent, so that service may be obtained. Although this practice will continue, the proposed amendment will allow for the possibility of service by the complainant. The Secretary has not made a practice of effecting personal service and is in no better position to do so than any complainant. Contrary to MABA's assertions, the Commission no longer has field offices, and the five area representatives around the country are not available for the purpose of serving complaints.

MABA also asserts that the Commission might use its Regulated Persons Index (RPI) to facilitate personal service. However, parties regulated by the Commission and listed in the RPI are rarely unavailable for mail service. The difficulty in serving by mail arises when the respondent is not regulated by the Commission, or has relocated its business without informing the Commission, thus rendering the RPI ineffective in locating a respondent. The language of the final rule is slightly modified, however, in an attempt to clear up confusion.

Proposed §§ 502.221 and 502.227 would limit briefs to an Administrative Law Judge and to the Commission on exceptions to fifty (50) pages in length, unless, for good cause shown, the presiding officer grants a request to exceed the limit. In its comments, MABA objects to these limits.

With respect to § 502.221, MABA suggests that it is unrealistic to expect an evidentiary record before an Administrative Law Judge to be encapsulated in a useful way within fifty pages that adequately develops legal issues, especially in a proceeding where the case will be developed on a written record without actual ''hearing.'' MABA also cites research indicating that other agencies do not impose page limitations on briefs before the presiding officer following an evidentiary hearing.

The evidentiary record in proceedings generally is not developed on the basis of briefs. Evidence is admitted in the form of written or oral testimony, with transcripts of oral testimony available, and the admission of documentary evidence. The Commission believes that, in most cases, lengthy briefs are not required to fully discuss the issues. It is not necessary to include within briefs evidence already admitted. However, the proposed rule allows the presiding officer to permit longer briefs where warranted. In light of MABA's concerns, however, the final rule expands the page limit for such briefs to eighty (80) pages. The Commission believes this measure will encourage efficiency and focus in proceedings which have become increasingly time consuming and costly.

With respect to § 502.227, MABA believes a page limitation on briefs to the Commission, is a ''closer question,'' and cites four other agencies who do

impose such limitations. They are the National Labor Relations Board, Occupational Safety and Health Administration, Securities and Exchange Commission, and Surface Transportation Board. As MABA points out, the Commission is not limited to identified issues of error, as a court of appeals would be, when reviewing a matter on exceptions. MABA recognizes that the Commission is, indeed, the ultimate fact finder in such instances. In reality, however, when reviewing such matters the Commission has the developed record before it, including briefs previously filed with the presiding Administrative Law Judge. We believe it is unnecessary to retrace an entire proceeding in a brief on exceptions. Rather, such briefs should focus on the exceptions to the initial decision. Therefore, in the interest of efficiency and lower costs of proceedings, the final rule maintains the proposed fifty (50) page limitation on briefs on exceptions. It should be noted, however, that the rule provides that parties may request to be allowed to exceed the limitation for good cause, upon timely application.

MABA strongly supports the proposed incorporation of the American Bar Association's Model Rules of Professional Conduct into § 502.26, but requests that the Commission establish a procedure to handle complaints arising under §§ 502.26 and 502.30, the latter of which provides sanctions. As MABA points out, the presiding administrative law judge has dealt with ethical complaints when they arise in the course of a proceeding. MABA believes this may be appropriate in some circumstances, but awkward for the presiding officer and prejudicial to an attorney's client in other circumstances. MABA avers that the procedure can also deter a party from making a legitimate ethical complaint to an administrative law judge. MABA seeks a separate and impartial procedure to hear ethical complaints. Currently, no party is barred from bringing violations to the attention of the Commission. As MABA recognizes, certain questions are appropriate for resolution in the course of a proceeding by the presiding officer. Should there be a complaint, however, that the complaining party believes should be handled separately and independently from a proceeding, a filing, whether by petition or other written document, should be submitted to the Commission's Secretary, just as any other filing would be. The Secretary, in consultation with appropriate Commission officials, will arrange for consideration of the complaint within the Commission.

MABA also requests clarification that § 502.26 applies to both private attorneys and Commission attorneys. Neither the current or proposed § 502.26 differentiates between a Commission and private attorney, and no clarification in the rule appears warranted.

In a more general comment, MABA encourages the Commission ''to consider ways of reducing the length and cost of its proceedings,'' citing increasingly costly and time consuming proceedings. MABA suggests that Administrative Law Judges be given greater power to prevent unnecessary delay and expense. In addition, MABA recommends the Commission consider forming a public-private task force or advisory committee to recommend steps to reduce the length and cost of Commission proceedings. The Commission recognizes MABA's concerns, but does not believe an advisory committee, itself a costly undertaking, is warranted at the present time. The Administrative Law Judges currently possess authority to manage proceedings efficiently. As MABA recognizes, the Commission has procedural rules requiring expedited discovery, and the increasing complexity of proceedings, budget cutbacks and due process concerns all affect the length and cost of proceedings. Litigants' attorneys, however, play a major role in assuring that deadlines in proceedings are met and costs to their clients are kept down. Ultimately, the cooperation among parties and their counsel in discovery, a commitment to meet deadlines without requesting additional time, and minimizing the length and number of motions and other filings can have more impact on reducing costs than any rule changes that may be imposed by the Commission. However, it is believed that the page limitation on briefs and other changes made in these final rules will help reduce the expense of Commission proceedings.

Finally, MABA objects to the removal of the provision allowing for payment of penalties by promissory note, suggesting that the Commission continue to allow such payment where appropriate. Proposed § 502.605 would still allow the Commission to accept payment by ''other instrument acceptable to the Commission,'' which could include a promissory note where appropriate. Generally speaking, however, it is not the Commission's policy or preference to accept promissory notes, and therefore adopting MABA's comment may be misleading. Accordingly, this provision is not changed in the final rule.

Fruit Shippers Ltd. commented that changes should be made to the definition of common carrier. However, the term is not defined in parts 502 and 545, and the comments are not applicable to this rulemaking proceeding. The comment will be addressed when the proposed rule in Docket No. 98–29, *Carrier Automated Tariff Systems,* 63 FR 70368, is finalized. APL asked for leave to file a comment late in order to point out an error in terminology in § 545.1. The nature of the comment, pointing out an obvious error, requires that it be accepted, even though filed late, and the error is corrected by replacing the term ''conference'' with the OSRA terminology ''an agreement between or among ocean common carriers'' in § 545.1.

The rule contains no additional information collection or record keeping requirements and was not required to be submitted to OMB for approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the Chairman of the Federal Maritime Commission has certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule will not have a significant impact on a substantial number of small entities. In its Notice of Proposed Rulemaking, the Commission stated its intention to certify this rulemaking because the amendments would either have no effect on small entities, or in the case where the amendments are likely to impact small entities, the economic impact will be *de minimis.* The comments received did not dispute the Commission's intention to certify, therefore, the certification is continued.

This regulatory action is not a ''major'' rule under 5 U.S.C. 804(2).

List of Subjects

46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Maritime carriers, Penalties, Reporting and recordkeeping requirements.

46 CFR Parts 545 and 571

Antitrust, Maritime carriers. For the reasons stated in the preamble, the Federal Maritime Commission amends 46 CFR parts 502, 545 and 571 as set forth below:

PART 502—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 502 is revised to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–596; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. app. 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965 (30 FR 6469); 21 U.S.C. 853a; Pub. L. 105–258; and Pub. L. 88–777 (46 U.S.C. app. 817d, 817e).

2. Amend § 502.1 as follows:

a. Revise the first sentence of § 502.1 to read as set forth below:

b. Move ''[Rule 1.]'' to the end of the section.

§ 502.1 Scope of rules in this part.

The rules in this part govern procedure before the Federal Maritime Commission, hereinafter referred to as the ''Commission,'' under the Merchant Marine Act, 1920, Merchant Marine Act, 1936, Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998, Administrative Procedure Act, and related acts, except that subpart R of this part does not apply to proceedings subject to sections 7 and 8 of the Administrative Procedure Act, which are to be governed only by subparts A to Q inclusive, of this part.

* * *

3. Amend § 502.2 to read as follows:

a. In the text of paragraph (c) revise ''§ 502.11(b)'' to read ''§ 502.11.''

b. In paragraph (d) remove ''[Rule 2.]''

c. Add paragraph (e) to read as follows:

§ 502.2 Filing of documents; hours; mailing address.

* * * * *

(e) Any pleading, document, writing or other paper submitted for filing which is rejected because it does not conform to the rules in this part shall be returned to the sender. [Rule 2.]

4. Amend § 502.11 as follows:

a. Revise section heading to read as set forth below;

b. Remove paragraph (a) and the heading of paragraph (b);

c. Redesignate paragraphs (b)(1) through (b)(7) as paragraphs (a) through (g).

§ 502.11 Ex parte communications.

* * * * *

§ 502.12 [Amended]

5. In § 502.12, add ''[Rule 12.]'' to the end of the text.

6. In § 502.21, revise the paragraph heading in paragraph (c) to read as follows:

§ 502.21 Appearance.

* * * * *

(c) *Special appearance.* * * *

7. Revise § 502.23 to read as follows:

§ 502.23 Notice of appearance; substitution and withdrawal of representative.

(a) Upon filing of a complaint instituting proceedings or filing of an answer to an order or complaint, the party filing shall notify the Commission of the name(s) and address(es) of the person or persons who will represent them in the pending proceeding. Each person who appears at a hearing shall deliver a written notice of appearance to the reporter, stating for whom the appearance is made. Such notice shall indicate whether the representative wishes to be notified of decisions by telephone, facsimile transmission, or electronic mail. All appearances shall be noted in the record. Petitions for leave to intervene shall indicate the name(s) and address(es) of the person or persons who will represent the intervenor in the pending proceeding if the petition is granted.

(b) A Notice of Appearance should follow the form set forth in Exhibit No. 1 to this subpart.

(c) If an attorney or other representative of record is superseded, there shall be filed a stipulation of substitution signed both by the attorney(s) or representative(s) and by the party, or a written notice from the party to the Commission.

(d) If an attorney wishes to withdraw from representing a party, such attorney shall file an appropriate motion seeking permission to withdraw and provide appropriate reasons for making the motion. Such motion will be decided in consideration of the factors and standards set forth in Rule 1.16 of the American Bar Association's Model Rules of Professional Conduct and by the courts.

8. Revise § 502.24(b) to read as follows:

§ 502.24 Practice before the Commission defined.

* * * * *

(b) The term ''Commission'' as used in this subpart includes any bureau, division, office, branch, section, or unit of the Federal Maritime Commission and any officer or employee of such bureau, division, office, branch, section, or unit. [Rule 24.]

9. Revise § 502.26, to read as follows:

§ 502.26 Attorneys at law.

Attorneys at law who are admitted to practice before the Federal courts or before the courts of any State or Territory of the United States may practice before the Commission. An attorney must represent in writing, filed with the Secretary, that he is admitted to practice and in good standing. An attorney practicing before the Commission is expected to conform to the standards of conduct set forth in the American Bar Association's Model Rules of Professional Conduct in addition to the specific requirements of this chapter. [Rule 26.]

10. In § 502.27(a)(1) correct ''§ 503.43(h)'' to read ''§ 503.43(g).''

11. Revise Exhibit No. 1 to Subpart B as follows:

Exhibit No. 1 to Subpart B

Federal Maritime Commission

Notice of Appearance

Docket No. _____:

Please enter my appearance in this proceeding as counsel for _____.

I request to be informed of service of the administrative law judge's initial or recommended decision and of the Commission's decision in this proceeding by:

[ ] telephone (In the event that I am not available when you call, appropriate advice left with my office will suffice.)

[ ] facsimile transmission

[ ] electronic mail

_____

[Name]

_____

[Address]

_____

[Telephone No.]

_____

[Fax No.]

_____

[E-mail address]

_____

[Signature]

12. Revise § 502.42 to read as follows:

§ 502.42 Bureau of Enforcement.

The Director, Bureau of Enforcement, shall be a party to all proceedings governed by the rules in this part except that in complaint proceedings under § 502.62, the Director may become a party only upon leave to intervene granted pursuant to § 502.72, in rulemaking proceedings and in proceedings considering petitions the Director may become a party by designation if the Commission determines that the circumstances of the proceeding warrant such participation, and the Director will not ordinarily be a party to small claims proceedings under § 502.304 and special docket proceedings under § 502.271. The Director or the Director's representative shall be served with copies of all papers, pleadings, and documents in every proceeding in which the Bureau of Enforcement is a party. The Bureau of Enforcement shall actively participate in any proceeding to which the Director is a party, to the extent required in the

public interest, subject to the separation of functions required by section 5(c) of the Administrative Procedure Act. (See § 502.224). [Rule 42.]

13. Revise § 502.51 to read as follows:

§ 502.51 Initiation of procedure to issue, amend, or repeal a rule.

(a) *By petition.* Any interested party may file with the Commission a petition for the issuance, amendment, or repeal of a rule designed to implement, interpret, or prescribe law, policy, organization, procedure, or practice requirements of the Commission. The petition shall set forth the interest of petitioner and the nature of the relief desired, shall include any facts, views, arguments, and data deemed relevant by petitioner, and shall be verified. If such petition is for the amendment or repeal of a rule, it shall be accompanied by proof of service on all persons, if any, specifically named in such rule, and shall conform in other aspects to Subpart H of this part. Petitions shall be accompanied by remittance of a $177 filing fee. Replies to such petition shall conform to the requirements of § 502.74.

(b) *By the Commission.* The Commission on its own initiative may initiate the issuance, amendment, or repeal of a rule through notice of proposed rulemaking or advanced notice of proposed rulemaking. [Rule 51.]

§ 502.56 [Amended]

14. In § 502.56, add ''[Rule 56.]'' at the end of the text.

§ 502.61 [Amended]

15. In § 502.61, add ''[Rule 61.]'' to the end of paragraph (d).

16. In § 502.62, redesignate paragraph (g) as paragraph (h), revise redesignated paragraph (h) and add new paragraph (g) to read as follows:

§ 502.62 Complaints and fee.

* * * * *

(g) Complainants desiring to use the discovery provisions of subpart L must commence discovery at the time the complaint is filed, pursuant to § 502.201(b).

(h) For special types of cases, see § 502.271 in subpart Q (Refund or waiver of freight charges); subpart K (Shortened Procedure); and subpart S (Small Claims). [Rule 62.]

17. In § 502.63, remove paragraph (a), redesignate paragraphs (b) through (e) as paragraphs (a) through (d), and revise the section heading to read as follows:

§ 502.63 Statute of limitations for reparations.

* * * * *

18. Amend § 502.64 as follows:

a. Add a sentence to the end of paragraph (a) to read as set forth below;

b. Add ''[Rule 64.]'' to the end of paragraph (d).

§ 502.64 Answer to complaint; countercomplaint.

(a) * * *. An answer to the complaint must be verified.

* * * * *

19. Add § 502.67 to read as follows:

§ 502.67 Exemption procedures—General.

(a) *Authority.* The Commission, upon application or on its own motion, may by order or rule exempt for the future any class of agreements between persons subject to the Shipping Act of 1984 or any specified activity of persons subject to the Shipping Act of 1984 from any requirement of the Shipping Act of 1984 if it finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce. The Commission may attach conditions to any exemption and may, by order, revoke any exemption.

(b) *Application for exemption.* Any person may petition the Commission for an exemption or revocation of an exemption of any class of agreements or an individual agreement or any specified activity pursuant to section 16 of the Shipping Act of 1984. A petition for exemption shall state the particular requirement of the Shipping Act of 1984 for which exemption is sought. The petition shall also include a statement of the reasons why an exemption should be granted or revoked, shall provide information relevant to any finding required by the Shipping Act of 1984 and shall comply with § 502.69. Where a petition for exemption of an individual agreement is made, the application shall include a copy of the agreement.

(c) *Participation by interested persons.* No order or rule of exemption or revocation of exemption may be issued unless opportunity for hearing has been afforded interested persons and departments and agencies of the United States.

(d) *Federal Register notice.* Notice of any proposed exemption or revocation of exemption, whether upon petition or upon the Commission's own motion, shall be published in the **Federal Register**. The notice shall include when applicable:

(1) A short title for the proposed exemption or the title of the existing exemption;

(2) The identity of the party proposing the exemption or seeking revocation;

(3) A concise summary of the agreement or class of agreements or specified activity for which exemption is sought, or the exemption which is to be revoked;

(4) A statement that the petition and any accompanying information are available for inspection in the Commission's offices in Washington, DC; and

(5) The final date for filing comments regarding the proposal. [Rule 67.]

§ 502.71 [Amended]

20. In § 502.71, add ''[Rule 71.]'' to the end of the text.

21. In § 502.75, revise paragraph (a) to read as follows:

§ 502.75 Proceedings involving assessment agreements.

(a) In complaint proceedings involving assessment agreements filed under section 5(e) of the Shipping Act of 1984, the Notice of Filing of Complaint and Assignment will specify a date before which the initial decision will be issued, which date will not be more than eight months from the date the complaint was filed.

* * * * *

Exhibit 1 to Subpart E [Amended]

22. In Exhibit 1 to Subpart E, remove the third paragraph after the heading ''Information to Assist in Filing Formal Complaint,'' beginning with the text ''Under the Shipping Act, 1916 * * *.''

§ 502.91 [Amended]

23. In § 502.91, add ''[Rule 91.]'' to the end of paragraph (d).

§ 502.92 [Removed and reserved] Exhibit 1 [Removed]

24. In subpart F, remove and reserve § 502.92, and remove Exhibit 1.

§ 502.94 [Amended]

25. In § 502.94, add ''[Rule 94.]'' to the end of paragraph (c).

26. Revise § 502.102 to read as follows:

§ 502.102 Enlargement of time to file documents.

(a) Motions for enlargement of time for the filing of any pleading or other document, or in connection with the procedures of subpart L of this part, shall set forth the reasons for the motion and be submitted at least five (5) days before the scheduled date for filing. Except for good cause shown, failure to meet this time requirement may result in summary rejection of the request.

(b) Such motions will be granted only under exceptional circumstances duly demonstrated in the request, and shall conform to the requirements of Subpart H of this part, except as to service if they show that the parties have received actual notice of the motion; and in

relation to briefs, exceptions, and replies to exceptions, such motions shall conform to the further provisions of §§ 502.222 and 502.227.

(c) Upon motion made after the expiration of the scheduled date, the filing may be permitted where reasonable grounds are found for the failure to file.

(d) Replies to such motions for enlargement of time shall conform to the requirements of § 502.74. [Rule 102.]

27. Add two sentences before the last sentence of § 502.104 to read as follows:

§ 502.104 Postponement of hearing.

* * * Such motions must be received, whether orally or in writing, at least five (5) days before the scheduled date for hearing. Except for good cause shown, failure to meet this requirement may result in summary rejection of the request. * * *

28. Revise § 502.105 to read as follows:

§ 502.105 Waiver of rules governing enlargements of time and postponements of hearings.

The Commission, the presiding officer, or the Chief Administrative Law Judge may waive the requirements of §§ 502.102 and 502.104 as to replies and may rule ex parte on such requests. [Rule 105.]

29. In subpart H, revise § 502.111 to read as follows:

§ 502.111 Form and appearance of documents filed with Commission.

(a) All papers to be filed under the rules in this part must be clear and legible, dated, show the docket description and title of the proceeding, and include the title, if any, and address of the signer. An original signed in ink must be provided. Text shall appear on only one side of the paper and must be double spaced except that quotations must be single spaced and indented. The paper must be strong and durable, not more than 8½ inches wide and 12 inches long, with a left hand margin of 1½ inches. Documents shall be printed in clear type, never smaller than 12 point.

(b) Filings by facsimile for purposes of meeting a deadline will not be accepted unless authorized by the presiding officer or the Secretary.

(c) Facsimile transmissions of signature pages on filings will be tentatively accepted for the purpose of meeting filing deadlines pending receipt of the original signature page within seven working days. [Rule 111.]

30. Amend § 502.112 as follows:

a. Revise the section heading to read as set forth below;

b. Add ''[Rule 112.]'' to the end of paragraph (c)(2).

§ 502.112 Verification of documents.

* * * * *

31. Revise § 502.113 to read as follows:

§ 502.113 Service by the Commission.

(a) Complaints filed pursuant to § 502.62, (including any accompanying discovery requests initiated pursuant to § 502.201(b)), amendments to complaints (unless otherwise authorized by the presiding officer pursuant to § 502.70(b)), and complainant's memoranda filed in shortened procedure cases will be served by the Secretary of the Commission.

(b) The complainant may also effect proper service, in which case an affidavit setting forth the method, time and place of service must be filed with the Secretary within five days following service.

(c) In addition to and accompanying the original of every document filed with the Commission for service by the Commission, there shall be a sufficient number of copies for use of the Commission (see § 502.118) and for service on each party to the proceeding.

(d) The presiding officer may dismiss a complaint that has not been served within thirty (30) days after the complaint was filed. [Rule 113.]

32. In § 502.114, revise the section heading and paragraph (a) to read as follows:

§ 502.114 Service by parties of pleadings and other documents.

(a) Except as otherwise specifically provided by the rules in this part, all pleadings, documents, and papers of every kind (except requests for subpoenas, documents served by the Commission under § 502.113, and documents submitted at a hearing or prehearing conference) in proceedings before the Commission under the rules in this part shall, when tendered to the Commission or the presiding officer for filing, show that service has been made upon all parties to the proceeding and upon any other persons required by the rules in this part to be served. Such service shall be made by delivering one copy to each party; by hand delivering in person; by mail, properly addressed with postage prepaid; by courier; or by facsimile transmission if agreed by both parties prior to service.

* * * * *

§ 502.114 [Amended]

33. Amend § 502.114(b) as follows:

a. Revise ''(Rule 53)'' to read ''(Rule 52).''

b. Revise ''(Part 585)'' to read ''(Part 550).''

c. Revise ''13(b)(5) of the Shipping Act of 1984, 46 U.S.C. app. 1712(b)(5) (part 587)'' to read ''13(b)(6) of the Shipping Act of 1984 (part 560).''

34. Revise § 502.116 to read as follows:

§ 502.116 Date of service.

The date of service of documents served by the Commission shall be the date shown in the service stamp thereon. The date of service of documents served by parties shall be the date when matter served is deposited in the United States mail, delivered to a courier, delivered in person, or transmitted by facsimile, as the case may be. In computing the time from such dates, the provisions of § 502.101 shall apply. [Rule 116.]

35. In § 502.118, revise paragraph (b)(2) to read as follows:

§ 502.118 Copies of documents for use of the Commission.

* * * * *

(b) * * *

(2) An original and four copies shall be filed with the Secretary of prehearing statements required by § 502.95, stipulations under § 502.162, notices of appearance required by § 502.23, and all other motions, petitions, or other written communications seeking a ruling from the presiding administrative law judge.

* * * * *

36. In § 502.119, revise paragraphs (a) and (b) to read as follows:

§ 502.119 Documents containing confidential materials.

* * * * *

(a) Filings shall be accompanied by a transmittal letter which identifies the filing as ''confidential'' and describes the nature and extent of the authority for requesting confidential treatment. The confidential copies shall consist of the complete filing and shall include a cover page marked ''Confidential-Restricted,'' with the confidential materials clearly marked on each page.

(b) Whenever a confidential filing is submitted, there must also be submitted an original and one copy of a public version of the filing. Such public version shall exclude confidential materials, and shall indicate on the cover page and on each affected page ''confidential materials excluded.''

* * * * *

37. Revise § 502.133 to read as follows:

§ 502.133 Attendance and mileage fees.

Witnesses summoned by subpena to a hearing or deposition are entitled to the

same fees and mileage that are paid to witnesses in courts of the United States. Fees and mileage shall be paid, upon request, by the party at whose instance the witness appears. [Rule 133.]

§ 502.143 [Amended]

38. In the text of § 502.143 revise ''§ 502.133,'' to read ''§ 502.113.''

39. In § 502.144,

a. Redesignate the current text as paragraph (a);

b. Revise the section heading to read as set forth below;

c. Revise the last sentence of newly redesignated paragraph (a) to read as set forth below;

d. Add new paragraph (b) to read as set forth below.

§ 502.144 Notice of time and place of hearing; postponement of hearing

(a) * * * Notice may be served by mail, facsimile transmission, or electronic mail.

(b) Motions for postponement of any hearing date shall be filed in accordance with § 502.104. [Rule 144.]

40. In § 502.146, revise paragraph (a) and paragraph (c) to read as follows:

§ 502.146 Commencement of functions of Office of Administrative Law Judges.

* * * * *

(a) Upon the service by the Commission of a complaint filed pursuant to § 502.62, or § 502.182, or upon referral under subpart T of this part; or

(b) * * *

(c) Upon forwarding for assignment by the Office of the Secretary of a special docket application pursuant to § 502.271; or

* * * * *

41. In the first sentence of paragraph (a) of § 502.147 remove the phrase ''except with regard to that portion of any order involving the Commission's suspension authority set forth in section 3, Intercoastal Shipping Act, 1933.''

42. In § 502.147, revise paragraph (b) to read as follows:

§ 502.147 Functions and powers.

* * * * *

(b) All of the functions delegated in Subparts A to Q and Subpart T of this part, inclusive, to the Chief Judge, presiding officer, or administrative law judge include the functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter, pursuant to the provisions of section 105 of Reorganization Plan No. 7 of 1961. [Rule 147.]

43. Amend § 502.201 as follows:

a. Revise paragraph (a) to read as set forth below;

b. Revise the paragraph headings in paragraph (d) and (f) to read as follows:

§ 502.201 General provisions governing discovery.

(a) *Applicability.* The procedures described in this subpart are available in all adjudicatory proceedings under the Shipping Act of 1984. Unless otherwise ordered by the presiding officer, the copy requirements of § 502.118(b)(3)(i) shall be observed.

* * * * *

(d) *Duty of the parties to meet or confer.* * * *

(f) *Conferences by order of the presiding officer.* * * *

* * * * *

44. In § 502.221, revise paragraph (f) to read as follows:

§ 502.221 Briefs; requests for findings.

* * * * *

(f) All briefs filed pursuant to this section shall ordinarily be limited to eighty (80) pages in length, exclusive of pages containing the table of contents, table of authorities, and certificate of service, unless the presiding officer allows the parties to exceed this limit for good cause shown and upon application filed not later than five (5) days before the time fixed for filing of such a brief or reply. [Rule 221.]

45. Revise § 502.223 to read as follows:

§ 502.223 Decisions—Administrative law judges.

To the administrative law judges is delegated the authority to make and serve initial or recommended decisions. All initial and recommended decisions will include a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues presented on the record, and the appropriate rule, order, sanction, relief, or denial thereof. Where appropriate, the statement of findings and conclusions should be numbered. Initial decisions should address only those issues necessary to a resolution of the material issues presented on the record. A copy of each decision when issued shall be served on the parties to the proceeding. In proceedings involving overcharge claims, the presiding officer may, where appropriate, require that the carrier publish notice in its tariff of the substance of the decision. This provision shall also apply to decisions issued pursuant to subpart T of this part. [Rule 223.]

46. Revise § 502.225 to read as follows:

§ 502.225 Decisions—Commission.

All final decisions will include a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues presented on the record, and the appropriate rule, order, sanction, relief, or denial thereof. A copy of each decision when issued shall be served on the parties to the proceeding. This provision shall also apply to decisions issued pursuant to subpart T of this part. [Rule 225.]

47. Amend § 502.227 as follows:

a. Revise the section heading to read as set forth below;

b. Redesignate paragraphs (a)(4) through (6) as paragraphs (a)(5) through (7);

c. Add a new paragraph (a)(4) to read as set forth below;

d. Remove ''[Rule 227]'' from paragraph (d);

e. Add new paragraph (e) to read as set forth below.

§ 502.227 Exceptions to decisions or orders of dismissal of administrative law judge; replies thereto; review of decisions or orders of dismissal by Commission; and judicial review.

(a) * * *

(4) A decision or order of dismissal by an administrative law judge shall only be considered final for purposes of judicial review if the party has first sought review by the Commission pursuant to this section.

* * * * *

(e) All briefs and replies filed pursuant to this section shall ordinarily be limited to fifty (50) pages in length, exclusive of pages containing the table of contents, table of authorities, and certificate of service, unless the Commission allows the parties to exceed this limit for good cause shown and upon application filed not later than five (5) days before the time fixed for filing of such a brief or reply. [Rule 227.]

48. Revise § 502.253 to read as follows:

§ 502.253 Interest in reparation proceedings.

Except as to applications for refund or waiver of freight charges under § 502.271 and claims which are settled by agreement of the parties, and absent fraud or misconduct of a party, interest granted on awards of reparation in complaint proceedings instituted under the Shipping Act of 1984 will accrue from the date of injury to the date specified in the Commission order awarding reparation. Compounding will be daily from the date of injury to the date specified in the Commission order awarding reparation. Normally, the date specified within which payment must be made will be fifteen (15) days subsequent to the date of service of the

Commission order. Interest shall be computed on the basis of the average monthly secondary market rate on six-month U.S. Treasury bills commencing with the rate for the month that the injury occurred and concluding with the latest available monthly U.S. Treasury bill rate at the date of the Commission order awarding reparation. The monthly secondary market rates on six-month U.S. Treasury bills for the reparation period will be summed up and divided by the number of months for which interest rates are available in the reparation period to determine the average interest rate applicable during the period. [Rule 253.]

49. Amend § 502.254 as follows:

a. Revise the first sentence of paragraph (a) to read as set forth below;

b. Revise paragraph (c)(1)(i) to read as set forth below.

§ 502.254 Attorney's fees in reparation proceedings.

(a) *Scope.* The Commission shall, upon petition, award the complainant reasonable attorney's fees directly related to obtaining a reparations award in any complaint proceeding under section 11 of the Shipping Act of 1984.

* * *

(c) * * * (1) * * *

(i) With the presiding officer where the presiding officer's decision awarding reparations became administratively final pursuant to § 502.227(a)(3) and § 502.304(g); or

* * * * *

50. Revise subpart Q consisting of § 502.271 to read as follows:

Subpart Q—Refund or Waiver of Freight Charges

§ 502.271 Special docket application for permission to refund or waive freight charges.

(a)(1) A common carrier or a shipper may file a special docket application seeking permission for a common carrier or conference to refund or waive collection of a portion of freight charges if there is:

(i) An error in the tariff;

(ii) An error in failing to publish a new tariff; or

(iii) An error in quoting a tariff .

(2) Such refund or waiver must not result in discrimination among shippers, ports, or carriers.

(b) Such application must be filed within one hundred eighty (180) days from the date of sailing of the vessel from the port at which the cargo was loaded. An application is filed when it is placed in the mail, delivered to a courier, or, if delivered by another method, when it is received by the Commission. Filings by mail or courier must include a certification as to date of mailing or delivery to the courier.

(c) Prior to submission of the application for a refund for an error in a tariff or a failure to publish a new tariff, the carrier or conference must publish a new tariff which sets forth the rate on which refund or waiver would be based.

(d) Such application must be in accordance with Exhibit 1 to this Subpart and must also comply with the following requirements:

(1) Applications must be submitted to the Office of the Secretary, Federal Maritime Commission, Washington, DC 20573–0001.

(2) Applications must be submitted in an original and one (1) copy.

(3) Applications must be sworn to before a notary public or otherwise verified in accordance with § 502.112.

(4) When a rate published in a conference tariff is involved, the carrier or shipper must serve a copy of the application on the conference and so certify in accordance with § 502.117 to that service in the application. A shipper must also make a similar service and certification with respect to the common carrier.

(5) Applications must be accompanied by remittance of an $86 filing fee.

(e) Any application which does not furnish the information required by this Subpart may be returned to the applicant by the Secretary without prejudice to resubmission within the 180-day limitation period.

(f)(1) The Secretary in his discretion shall assign all applications to either a Special Dockets Officer or the Office of Administrative Law Judges. Authority to issue decisions under this subpart is delegated to the assigned Special Dockets Officer or Administrative Law Judge.

(2) Applicants will be notified as to the assignment of a deciding official, and the assignment of a special docket number. Formal proceedings as described in other rules of this part need not be conducted. The deciding official may, in his or her discretion, require the submission of additional information.

(g) The deciding official shall issue a decision which, pursuant to § 501.21 of this chapter, shall become final ten (10) days after service of such decision, unless the Commission in its discretion chooses to review such decision within that time, or the applicant chooses to file exceptions to such decision within that time. [Rule 271.]

Exhibit No. 1 to Subpart Q

Application for Refund or Waiver of Freight Charges Due to Tariff or Quoting Error

Federal Maritime Commission Special Docket No. _____ [leave blank].

Amount of Freight Charges to be refunded or waived:

Application of (Name of carrier or shipper) for the benefit of (Name of person who paid or is responsible for payment of freight charges).

1. Shipment(s). Here fully describe:

(a) Commodity (according to tariff description).

(b) Number of shipments.

(c) Weight or measurement, container size, and number of containers of individual shipment, as well as all shipments.

(d)(1) Date(s) of receipt of shipment(s) by the carrier;

(2) Date(s) of sailing(s) (furnish supporting evidence).

(e) Shipper and place of origin.

(f) Consignee, place of destination and routing of shipment(s).

(g) Name of carrier and date shown on bill of lading (furnish legible copies of bill(s) of lading).

(h) Names of participating ocean carrier(s).

(i) Name(s) of vessel(s) involved in carriage.

(j) Amount of freight charges actually collected (furnish legible copies of rated bill(s) of lading or freight bill(s), as appropriate) broken down (i) per shipment, (ii) in the aggregate, (iii) by whom paid, (iv) who is responsible for payment if different, and (v) date(s) of collection.

(k) Rate and tariff commodity description applicable at time of shipment (furnish legible copies of tariff materials).

(l) Rate and commodity description sought to be applied (furnish legible copies of applicable tariff materials).

(m)(1) Amount of applicable freight charges, per shipment and in the aggregate;

(2) Amount of freight charges at rate sought to be applied, per shipment and in the aggregate.

(n) Amount of freight charges sought to be (refunded) (waived), per shipment and in the aggregate.

2. Furnish docket numbers of other special docket applications or decided or pending formal proceedings involving the same rate situations.

3. Fully explain the basis for the application, i.e., the error, failure to publish, or misquote, showing why the application should be granted. Furnish affidavits, if appropriate, and legible copies of all supporting documents. If the error is due to failure to publish a tariff, specify the date when the carrier and/or conference intended or agreed to publish a new tariff. If the application is based on a misquote, the application must include the affidavit of the person who made the misquote describing the circumstances surrounding such misquote along with any other supporting documentary evidence available.

4. Furnish any information or evidence as to whether granting the application may result in discrimination among shippers, ports or carriers. List any shipments of other

shippers of the same commodity which (i) moved via the carrier(s) or conference involved in this application during the period of time beginning on the date the intended rate would have become effective and ending on the day before the effective date of the conforming tariff; (ii) moved on the same voyage(s) of the vessel(s) carrying the shipment(s) described in No. 1, above; or (iii), in the case of a misquote, moved between the date of receipt of shipment(s) described in No. 1 above, and the date(s) of sailing(s).

(Here set forth Name of Applicant, Signature of Authorized Person, Typed or Printed Name of Person, Title of Person and Date)

State of , County of . ss:

I,_____ , on oath declare that I am _____ of the above-named applicant, that I have read this application and know its contents, and that they are true. Subscribed and sworn to before me, a notary public in and for the State of _____ , County of _____, this _____ day of _____ . (Seal)

_____

Notary Public

My Commission expires.

CERTIFICATE OF SERVICE (if applicable)

I hereby certify that I have this day served the foregoing document upon the (insert the conference name if a conference tariff is involved; or the name of the carrier if the applicant is a shipper) by delivering a copy (insert means by which copy delivered).

Dated in (insert city, county, state) this _____ day of _____. (signature)

For:

CERTIFICATE OF MAILING

I certify that the date shown below is the date of mailing (or date of delivery to courier) of the original and one (1) copy of this application to the Secretary, Federal Maritime Commission, Washington, DC, 20573–0001.

Dated at _____, this _____ day of _____ .

(Signature) .

For.

§ 502.301 [Amended]

51. In § 502.301, remove paragraph (b) and redesignate paragraphs (c) and (d) as paragraphs (b) and (c).

§ 502.302 [Amended]

52. In § 502.302, remove paragraph (b) and redesignate paragraph (c) as paragraph (b).

53. Revise § 502.305 to read as follows:

§ 502.305 Applicability of other rules of this part.

Except §§ 502.253 and 502.254 or as otherwise specifically provided in this subpart, the rules in subparts A through Q, inclusive, of this part do not apply to situations covered by this subpart. [Rule 305.]

Exhibit 1 to Subpart S [Amended]

54. In Exhibit 1 to subpart S, in the section entitled *Information to Assist in Filing Informal Complaints,* remove the third paragraph beginning with the text ''Under the Shipping Act, 1916 * * *.''

55. Revise § 502.321 to read as follows:

§ 502.321 Applicability of other rules of this part.

Except as specifically provided in this part, rules in subparts A through Q, inclusive, of this part do not apply to situations covered by this subpart. [Rule 321.]

§ 502.402 [Amended]

56. Amend § 502.401 as follows: a. Amend paragraph (b) by removing ''Shipping Act, 1916, 46 U.S.C. app. 801 *et seq.*;'' and removing ''the Intercoastal Shipping Act 1933, 46 U.S.C. app. 843 *et seq.*''

b. Remove paragraph (d), and redesignate paragraph (e) as paragraph (d).

57. Amend § 502.501 as follows:

a. Add new paragraph (d)(2)(vi) to read as set forth below;

b. Add new paragraph (e)(3) to read as set forth below;

c. Revise the first sentence of paragraph (f)(2) to read as set forth below;

d. Add ''[Rule 501.]'' to the end of paragraph (g).

§ 502.501 General provisions.

* * * * *

(d) * * *

(2) * * *

(vi) For purposes of paragraph (e)(3) of this section, a small entity as defined in 5 U.S.C. 601.

(e) *Standards for awards.* (1) * * *

(2) * * *

(3) In an adversary adjudication arising from a Commission action to enforce a party's compliance with a statutory or regulatory requirement, if the demand by the Commission is substantially in excess of the decision of the presiding officer and is unreasonable under the facts and circumstances of the case, the presiding officer shall award to the party fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust.

* * * * *

(f) *Allowable fees and expenses.* (1) * * *

(2) No award for the fee of an attorney or agent under this subpart may exceed $125 per hour. * * *

§ 502.202 [Amended]

58. In § 502.502, add ''[Rule 502.]'' to the end of paragraph (d)(3).

§ 502.503 [Amended]

59. In § 502.503, add ''[Rule 503.]'' to the end of paragraph (j)(2).

60. Revise § 502.601 to read as follows:

§ 502.601 Purpose and scope.

The purpose of this subpart is to implement the statutory provisions of section 19 of the Merchant Marine Act, 1920, section 13 of the Shipping Act of 1984, and sections 2(c) and 3(c) of Pub. L. 89–777 by establishing rules and regulations governing the compromise, assessment, settlement and collection of civil penalties arising under certain designated provisions of the Merchant Marine Act , 1920, the Shipping Act of 1984, Public Law 89–777, and/or any order, rule, or regulation (except for procedural rules and regulations contained in this part) issued or made by the Commission in the exercise of its powers, duties and functions under those statutes. [Rule 601.]

61. Amend § 502.602 as follows:

a. Revise paragraph (h) to read as set forth below;

b. Add ''[Rule 602.]'' to the end of paragraph (i).

§ 502.602 Definitions

* * * * *

(h) *Violation* includes any violation of sections 19(6)(d), 19(7)(d) and 19(11) of the Merchant Marine Act, 1920; any provision of the Shipping Act of 1984; sections 2 and 3 of Pub. L. 89–777; and/or any order, rule or regulation (except for procedural rules and regulations contained in this part) issued or made by the Commission in the exercise of its powers, duties and functions under the Merchant Marine Act, 1920, the Shipping Act of 1984, or Pub. L. 89–777.

* * * * *

§ 502.603 [Amended]

62. In § 502.603, add ''[Rule 603.]'' to the end of paragraph (c).

63. Amend § 502.604 as follows:

a. Revise the first sentence of paragraph (b) to read as follows:

§ 502.604 Compromise of penalties: Relation to assessment proceedings.

* * * * *

(b) *Notice.* When the Commission considers it appropriate to afford an opportunity for the compromise of a civil penalty, it will, except when otherwise authorized by the Commission, or where circumstances render it unnecessary, send a Notice and Demand Letter (''NDL'') to the

respondent, by registered or certified mail, or by other means reasonably calculated to give notice. * * *

b. Add ''[Rule 604.]'' to the end of paragraph (g).

64. Amend § 502.605 as follows:

a. Revise paragraph (a) to read as follows:

b. Add ''[Rule 605.]'' to the end of paragraph (c).

§ 502.605 Payment of penalty; Method; default.

(a) *Method.* Payment of penalties by the respondent is to be made by bank cashier's check or other instrument acceptable to the Commission.

* * * * *

PART 571—INTERPRETATIONS AND STATEMENTS OF POLICY [REDESIGATED AS PART 545]

1. Redesignate part 571 as part 545.

PART 545—Redesignated from Part 571 and Amended

2. The authority citation for redesignated part 545 continues to read as follows:

Authority: 5 U.S.C. 553, 46 U.S.C. app. 1706, 1707, 1709, and 1716.

3. In redesignated § 545.1, revise paragraph (a) to read as follows:

§ 545.1 Interpretation of Shipping Act of 1984—Refusal to negotiate with shippers' associations.

(a) Section 8(c) of the Shipping Act of 1984 (''1984 Act'') authorizes ocean common carriers and conferences to enter into a service contract with a shippers' association, subject to the requirements of the 1984 Act. Section 10(b)(10) of the 1984 Act prohibits carriers from unreasonably refusing to deal or negotiate. Section 7(a)(2) of the 1984 Act exempts from the antitrust laws any activity within the scope of that Act, undertaken with a reasonable basis to conclude that it is pursuant to a filed and effective agreement.

* * * * *

By the Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–3621 Filed 2–16–99; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–90; RM–9070]

Radio Broadcasting Services; Dayton, WA and Weston, OR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Dayton Broadcasting Company, substitutes Channel 270C2 for Channel 272A at Dayton, Washington, reallots Channel 270C2 from Dayton to Weston, Oregon, and modifies Station KZZM(FM)'s license accordingly. *See* 63 FR 34620, June 25, 1998. Channel 270C2 can be reallotted to Weston in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction at petitioner's requested transmitter site. The coordinates for Channel 270C2 at Weston are 45–47–12 North Latitude and 118–15–46 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 22, 1999.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–90, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART—73 [AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Weston, Channel 270C2.

3. Section 73.202(b), the Table of FM Allotments under Washington, is amended by removing Channel 272A at Dayton.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3783 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office Of The Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–297]

Organization and Delegation of Powers and Duties Delegation to the Commandant, United States Coast Guard, the Federal Railroad Administrator, and the Federal Highway Administrator

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Secretary is delegating his authority under section 346 of the Department of Transportation and Related Agencies Appropriations Act, 1998, Pub. L. 105–66 (October 27, 1997) to the Commandant of the U. S. Coast Guard, the Federal Railroad Administrator, and the Federal Highway Administrator. Section 346 authorizes the Secretary of Transportation to establish, operate, and manage a nationwide system to be known as the ''Nationwide Differential Global Positioning System'' (NDGPS) as soon as practicable, to integrate the NDGPS reference stations into the Continuously Operating Reference Station (CORS) system of the National Geodetic Survey of the Department of Commerce, and to investigate the use of the NDGPS reference stations for the Global Positioning System Integrated Precipitable Water Vapor System of the National Oceanic and Atmospheric Administration of the Department of Commerce.

EFFECTIVE DATE: February 17, 1999.

FOR FURTHER INFORMATION CONTACT: John Macaluso, Office of the Secretary of Transportation (P–7), Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Phone: (202) 366–0362.

SUPPLEMENTARY INFORMATION: With the two exceptions noted later in this document, the authority of the Secretary in Section 346 to establish, operate, and manage the NDGPS, should be delegated to the Commandant of the Coast Guard,

because the USCG has the expertise and staff to carry out these functions in accordance with the statutory requirements. The pertinent actions of this delegation include, but are not limited to: (1) Taking receipt of such equipment and sites of the Ground Wave Emergency Network (GWEN) and reusing them as necessary for the establishment of the NDGPS, (2) installing the NDGPS by using contractor services to the maximum extent practicable, (3) modifying the positioning system operated by the Coast Guard to integrate it with the NDGPS, (4) ensuring that the reference stations are compatible with, and integrated into, the Continuously Operating Reference Station (CORS) system in cooperation with the National Geodetic Survey of the Department of Commerce, (5) investigating the use of the NDGPS reference stations for the Global Positioning System Integrated Precipitable Water Vapor System of the National Oceanic and Atmospheric Administration, of the Department of Commerce (6) cooperating with appropriate agencies within the Defense Department to ensure that the use of the NDGPS is denied to any enemy of the United States, (7) maintaining the sites and equipment of the NDGPS including entering into contracts to provide for maintenance where it is cost effective, (8) acting as lead agency, in cooperation with the Federal Railroad Administrator and Federal Highway Administrator, in the investigation of improvements to the NDGPS, in the development of standards for the NDGPS, and in the sponsorship of the development of new applications for the NDGPS, (9) providing for the continual upgrading of the NDGPS to improve performance, and (10) acting as a cooperating agency in matters relating to the National Environmental Policy Act (NEPA).

The first exception to the delegation to the Commandant of the Coast Guard is that the determination of the Federal requirements for the NDGPS, as a necessary function in the Secretary of Transportation's authority to establish, operate, and manage the NDGPS, is delegated to the Federal Railroad Administrator. This is because the Federal Railroad Administration will determine these requirements based upon its utility to the FRA's Positive Train Control and related initiatives.

The second exception to the delegation to the Commandant of the Coast Guard is that the function of acting as the lead DOT agency for matters relating to the National Environmental Policy Act (NEPA), which are pertinent to the Secretary of Transportation's authority to establish and manage the NDGPS, is delegated to the Federal Highway Administrator. This is because the Federal Highway Administration has the expertise, regulations, and staff to carry out these functions in accordance with the statutory requirements.

This delegation does not affect the authority or responsibility of the Secretary for policy development. Since this amendment relates to departmental organization, procedure and practice, notice and comment on it are unnecessary under 5 U.S.C. 553(b). Further, since the amendment expedites the Department of Transportation's ability to meet the statutory intent of Section 346 of the Department of Transportation and Related Agencies Appropriation Act, 1998, the Secretary finds good cause under 5 U.S.C. 553(d)(3) for the final rule to be effective on the date of publication in the **Federal Register**.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended, effective upon publication, to read as follows:

PART 1—[AMENDED]

1. The authority citation for Part 1 continues to read as follows:

Authority: 49 U.S.C. 2104(a); Pub. L. 101–552; 28 U.S.C. 2672, 31 U.S.C. 3711(a)(2), 46 U.S.C. 2104(a).

2. In § 1.46 (*Delegations to Commandant of the Coast Guard*), the paragraph (qqq) is added to read as follows:

§ 1.46 Delegations to Commandant of the Coast Guard.

* * * * *

(qqq) Carry out the functions and exercise the authority vested in the Secretary by section 346 of Pub. L. 105–66, titled the Department of Transportation and Related Agencies Appropriations Act, 1998, to establish, operate, and manage the Nationwide Differential Global Positioning System (NDGPS), except for the related function of determining the Federal requirements for the NDGPS, which is delegated to the Federal Railroad Administrator, and except for the related function of acting as lead DOT agency in matters relating to the National Environmental Policy Act, which is delegated to the Federal Highway Administrator.

3. In § 1.48 (*Delegations to Federal Highway Administrator*), paragraph (ll) is added to read as follows:

§ 1.48 Delegations to Federal Highway Administrator.

* * * * *

(ll) Carry out the function of acting as the lead DOT agency in matters relating to the National Environmental Policy Act pertinent to the authority vested in the Secretary to establish, operate, and manage the Nationwide Differential Global Positioning System (NDGPS) by section 346 of Pub. L. 105–66, titled the Department of Transportation and Related Agencies Appropriations Act, 1998.

4. In § 1.49 (*Delegations to Federal Railroad Administrator*), paragraph (ll) is added at the end thereof.

§ 1.49 Delegations to Federal Railroad Administrator.

* * * * *

(11) Carry out the function of determining the Federal requirements for the Nationwide Differential Global Positioning System (NDGPS) as a necessary part of the Secretary's authority to establish, operate, and manage the NDGPS granted by Section 346 of Public Law 105–66, titled the Department of Transportation and Related Agencies Appropriations Act, 1998.

Issued in Washington, DC, this 8th day of February, 1999.

Rodney E. Slater,

Secretary of Transportation.

[FR Doc. 99–3625 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990115017–9017–01; I.D. 011199A]

RIN 0648-AM08

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Pollock Fisheries off Alaska; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the emergency interim rule to implement reasonable and prudent alternatives to avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of

Steller sea lions or adversely modify their critical habitat that was published in the **Federal Register** on January 22, 1999.

DATES: Effective February 16, 1999.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907–586–7650.

SUPPLEMENTARY INFORMATION: An emergency interim rule was published in the **Federal Register** on January 22, 1999 (64 FR 3437), implementing reasonable and prudent alternatives to avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify their critical habitat.

Need for Correction

The change to § 679.23 is made to avoid conflict with the final rule to implement seasonal and area appotionments of Atka mackerel in the Bering Sea and Aleutian Islands Management Area (63 FR 3446, January 22, 1999).

§ 679.20 [Corrected]

1. On page 3443 and in § 679.20:

a. In the first column, in paragraph (a)(5)(i)(C)(*2*), in line 8, remove the reference ''§ 679.23 (e) (4) (ii)'' and add in its place, ''§ 679.23 (e)(4)(i)''.

b. In the second column, in paragraph (a)(5)(i)(C)(*3*), in line 3, remove the reference ''§ 679.23(e)(4)(iii)'' and add in its place, ''§ 679.23(e)(4)(ii)''.

§ 679.22 [Corrected]

2. On page 3443, in § 679.22 and in the third column:

a. In paragraph (a)(11)(iv)(A), in line 14, remove the reference ''(a)(7)(iv)(C)'' and add in its place, ''(a)(11)(iv)(C)''.

b. In paragraph (a)(11)(iv)(C)(*1*), in line 3, remove the reference ''(a)(7)(iv)(A)'' and add in its place, ''(a)(11)(iv)(A)''.

3. On page 3444, in § 679.22 and in the first column:

a. In paragraph (a)(11)(iv)(C)(*2*), in line 11, remove the reference ''(a)(7)(iv)(C)(*1)*'' and add in its place, ''(a)(11)(iv)(C)(*1)*''.

b. In paragraph (b)(3)(iii), in the next to last line, remove the reference ''(b)(2)(iii)(C)'' and add in its place, ''(b)(3)(iii)(C)''.

§ 679.23 [Corrected]

4. On page 3444, in § 679.23 and in the third column:

a. In line 6, redesignate paragraph (e)(4) as (e)(5).

Dated: February 9, 1999.

Andrew A. Rosenberg, Ph.D.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–3684 Filed 2–16–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981222313–8320–02; I.D. 021199A]

Fisheries of the Exclusive Economic Zone Off Alaska; Vessels Greater Than 99 feet (30.2 m) LOA Catching Pollock for Processing by the Inshore Component in the Bering Sea

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock by vessels greater than 99 feet (30.2 m) length over all (LOA) catching pollock for processing by the inshore component in the critical habitat/catcher vessel operation area (CH/CVOA) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the A1 season limit of pollock total allowable catch (TAC) specified for the inshore component within the CH/CVOA will be reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 11, 1999, until 1200 hrs, A.l.t., February 20, 1999.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(a)(5)(i)(C)(1), and the revised interim 1999 TAC amounts for pollock in the Bering Sea subarea (64 FR 3437, January 22, 1999) the A1 season limit of pollock TAC specified to the inshore component for harvest within the CH/CVOA is 80,776 metric tons (mt).

In accordance with § 679.22(a)(11)(iv)(A)&(C)(*2*) the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A1 season limit of pollock TAC specified to the inshore component for harvest within the CH/CVOA will be reached. The Regional Administrator has estimated that 1,000 mt is likely to be harvested by catcher vessels less than or equal to 99 feet (30.2 m) LOA during the remainder of the A1 season and is reserving that amount to accommodate fishing by such vessels after the closure of the CH/CVOA to vessels greater than 99 feet (30.2 m) LOA.

NMFS is prohibiting directed fishing for pollock by vessels greater than 99 feet (30.2 m) LOA catching pollock for processing by the inshore component within the CH/CVOA conservation zone, as defined at § 679.22(a)(11)(iv)(B).

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent exceeding the A1 season limit of pollock TAC specified to the inshore component for harvest within the CH/CVOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would result in noncompliance with reasonable and prudent management measures implemented to promote the recovery of the endangered Steller sea lion. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.22 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 11, 1999.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–3827 Filed 2–11–99; 2:16 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 31
Wednesday, February 17, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 98–029–1]

Change in Disease Status of the Republic of South Africa Because of Foot-and-Mouth Disease and Rinderpest

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to declare the Republic of South Africa, except Kruger National Park and the remainder of the foot-and-mouth disease controlled area, free of foot-and-mouth disease. We are also proposing to declare all of the Republic of South Africa free of rinderpest. These proposed actions appear to be appropriate because there have been no outbreaks of foot-and-mouth disease in the Republic of South Africa, except in Kruger National Park and the remainder of the foot-and-mouth disease controlled area, since 1957, and there have been no outbreaks of rinderpest in the Republic of South Africa since 1903. These proposed actions would relieve certain restrictions due to foot-and-mouth disease and rinderpest on the importation into the United States of certain live animals and animal products from all regions of the Republic of South Africa, except Kruger National Park and the remainder of the foot-and-mouth disease controlled area. However, because we consider the Republic of South Africa to be affected with hog cholera, African swine fever, and swine vesicular disease, and because the Republic of South Africa has certain trade practices regarding animals and animal products that are less restrictive than are acceptable for importation into the United States, the importation of live swine, and meat and other products from ruminants and swine, into the United States from the Republic of South Africa would continue to be subject to certain restrictions.

DATES: Consideration will be given only to comments received on or before April 19, 1999.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98–029–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 98–029–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202)690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Glen I. Garris, Supervisory Staff Officer, Regionalization Evaluation Services Staff, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231, (301) 734–8364.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) prohibit or restrict the importation of specified animals and animal products into the United States to help prevent the introduction of various diseases, including foot-and-mouth disease (FMD) and rinderpest. FMD and rinderpest are highly contagious and destructive diseases of ruminants and swine.

Section 94.1(a) of the regulations provides that rinderpest or FMD exists in all regions of the world except those listed in § 94.1(a)(2) as free of both of those diseases and those listed in § 94.1(a)(3) as free of rinderpest. The regulations in § 94.1(b) prohibit, with certain exceptions, the importation into the United States of any ruminant or swine, or any fresh (chilled or frozen) meat of any ruminant or swine, that originates from any region where rinderpest or FMD exists, or that has entered a port in or otherwise transited a region where rinderpest or FMD exists. Also, the regulations in § 94.2 restrict the importation of fresh (chilled or frozen) products, other than meat, and milk and milk products of ruminants or swine that originate in or transit a region where rinderpest or FMD exists. Additionally, the importation of organs, glands, extracts, and secretions of ruminants or swine originating in a region where rinderpest or FMD exists is restricted under the regulations in § 94.3, and the importation of cured or cooked meat from a region where rinderpest or FMD exists is restricted under the regulations in § 94.4. Finally, the regulations in 9 CFR part 98 restrict the importation of ruminant and swine embryos and animal semen from a region where rinderpest or FMD exists.

The Government of the Republic of South Africa has requested that the U.S. Department of Agriculture (USDA) recognize the Republic of South Africa as free of rinderpest. They have also requested that USDA recognize the Republic of South Africa, except Kruger National Park and the remainder of the FMD-controlled area, as free of FMD.

We will consider declaring a region free of rinderpest and FMD if, among other things, no cases of those diseases have been reported in the region for at least the previous 1-year period and no vaccinations for rinderpest or FMD have been administered to ruminants or swine in that region for at least the previous 1-year period. Rinderpest has not been diagnosed in the Republic of South Africa since 1903, and vaccination for rinderpest has never occurred. The last diagnosed case of FMD, outside Kruger National Park and the remainder of the FMD-controlled area, occurred in 1957, and vaccination outside of Kruger National Park and the remainder of the FMD-controlled area is not allowed.

In the documentation submitted by the Government of the Republic of South Africa and information obtained during the APHIS on-site evaluation (described later in this document), Kruger National Park and the remainder of the FMD-controlled area are described. Kruger National Park is surrounded by a barbed-wire fence that is approximately 6 feet high and patrolled by employees of the Republic of South Africa's agriculture department. One employee is stationed every 10 kilometers (km). At this time, the barbed-wire fence is being replaced by an electrified fence that is approximately 8 feet high. Beyond the

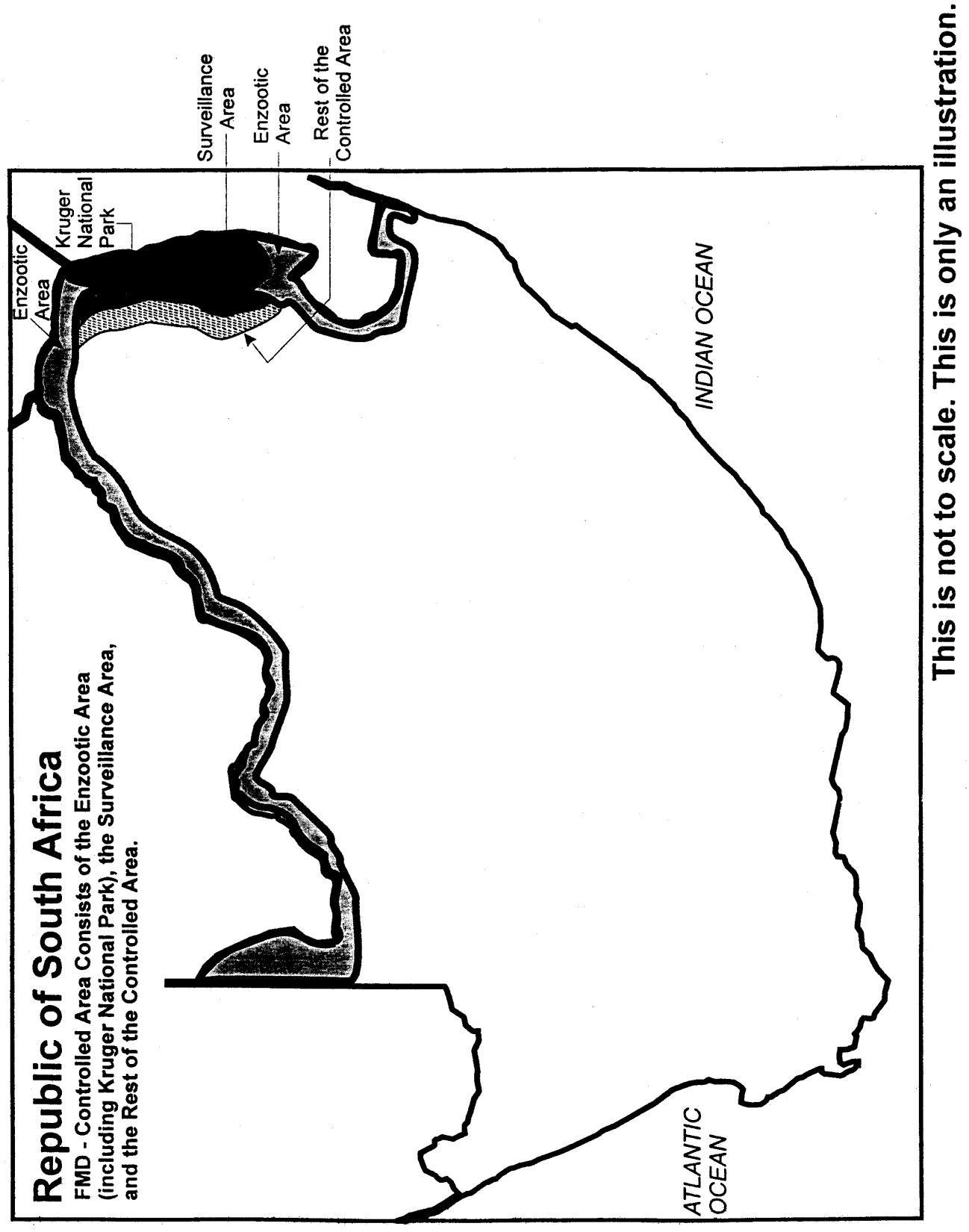
fence, the FMD-controlled area continues. The FMD-controlled area consists of the ''enzootic area,'' a ''surveillance area,'' and the rest of the controlled area (which forms a third buffer between infected areas and the free zone). The enzootic area is the innermost area of the FMD-controlled area and is approximately 10 to 20 km wide. Kruger National Park is within the enzootic area. The enzootic area extends along the national boundaries of the Republic of South Africa and Kruger National Park (see map below). Cattle and small stock (goats, sheep, and pigs) can be found in the enzootic area. Under the Republic of South Africa's regulations, cattle are inspected for signs of FMD every 7 days, and goats and sheep are similarly inspected every 28 days. In the portion of the enzootic area that is outside of and that borders Kruger National Park, all cattle, sheep, and goats are vaccinated against FMD every 6 months. Pigs are not vaccinated or examined in the enzootic area. However, there is no known commercial activity involving pigs in the enzootic area. The small stock people raise in this area are sheep and goats, and not pigs. If any pigs are present, they are raised for personal consumption and are not likely to be moved out of the area. Movement of animals susceptible to FMD from the enzootic area to the rest of the controlled area or the proposed FMD-free area of the Republic of South Africa requires written approval, except for direct movement to slaughter. In addition, movement of animals from the enzootic area to the surveillance area is allowed under permit after a 14-day quarantine. Also, written approval may be necessary under certain circumstances. Cattle moved from the enzootic area to the surveillance area are required to be permanently branded, except in the case of direct movement to slaughter.

The surveillance area is approximately 10 to 50 km wide; it borders the enzootic area that adjoins Kruger National Park. Under the Republic of South Africa's regulations, cattle in the surveillance area are inspected for signs of FMD every 14 days, and goats and sheep are similarly inspected every 28 days. Vaccination against FMD is not permitted in the surveillance area. The movement of animals from the surveillance area to the rest of the FMD-controlled area or to the proposed FMD-free area is allowed only after a 14-day quarantine, issuance of a permit, and written approval, in some cases. Negative serology is also required under certain circumstances. No branded cattle are allowed to leave the surveillance area, except for direct movement to slaughter. However, branded cattle that are in the rest of the controlled area or the proposed FMD-free area are subject to permit control and may be moved only after written approval from the proper authorities.

The rest of the controlled area is approximately 10 to 20 km wide. This area separates the surveillance area from the rest of the Republic of South Africa. Under the Republic of South Africa's regulations, cattle in this area must be inspected for signs of FMD every 28 days. Vaccination against FMD is not permitted.

BILLING CODE 3410–34–P

Map of the FMD-Controlled Area, Including Zones



BILLING CODE 3410–34–C

The Republic of South Africa also provided information about its surveillance system within the region under consideration for FMD-free status. The Republic of South Africa has primarily a passive surveillance system in which all cases of vesicular disease are investigated. Control measures are followed to prevent the introduction of FMD from Kruger National Park and bordering countries. If a case of FMD is discovered within the region under consideration for FMD-free status, the affected herd will be depopulated.

APHIS Review of Information

The Animal and Plant Health Inspection Service (APHIS) has reviewed the documentation submitted by the Government of the Republic of South Africa in support of its request, and a team of APHIS officials traveled to the Republic of South Africa in May 1998 to conduct an on-site evaluation of the Republic of South Africa's animal health program with regard to rinderpest and FMD. The on-site evaluation consisted of a review of the Republic of South Africa's veterinary services, laboratory and diagnostic procedures, disease surveillance system, and vaccination practices, and its administration of laws and regulations to ensure that rinderpest and FMD are not introduced through the importation of live animals, meat, and other animal products from other regions, including Kruger National Park and the remaining FMD-controlled area.

Livestock Demographics

The on-site evaluation also included a review of the livestock demographics within the FMD-controlled area. Currently, cattle and small stock are raised in the FMD-controlled area, and farmers in the FMD-controlled area typically raise a dozen or so cattle for their personal use and consumption and market one or more of the animals if cash is needed. However, cattle in the FMD-controlled area are not generally raised for commercial purposes. There are approximately 90,000 cattle in the enzootic area, and approximately 120,000 small stock, which consists primarily of goats but also includes some sheep. Pigs are uncommon. Small stock are raised for consumption by the owners and not for commercial purposes.

Movement of Meat and Other Products

There are approximately 10 approved slaughter facilities within the FMD-controlled area, and essentially all meat produced in these facilities is consumed within the FMD-controlled area. However, the Republic of South Africa's regulations allow cooked and cured meat, hides, and other products prepared in the FMD-controlled area to enter the proposed FMD-free area. Also, the Republic of South Africa's regulations allow carcasses, meats, hides, and skins prepared in approved slaughter facilities in the FMD-controlled area to enter the proposed FMD-free area. In addition, carcasses and offal that do not originate from approved slaughter facilities may be moved from the enzootic area to the surveillance area for a person's own consumption if the herd of origin has been inspected within the preceding 7 days (cattle) or 28 days (small stock) or the whole carcass, head, and feet have been inspected. Hides and skins not originating from approved slaughter facilities may be moved from the enzootic area to any destination under permit, and hides and skins originating from approved slaughter facilities may be moved from the enzootic area to any destination without a permit.

Barriers Between Regions

APHIS officials also evaluated whether the region under consideration for FMD-free status was separated adequately by physical or other barriers from adjacent regions of higher risk. APHIS officials observed that the outer limits of the FMD-controlled area around Kruger National Park, previously described in this document, are delineated by a range of high mountains that virtually encircle the park. In addition, the Republic of South Africa's northern boundary is rugged and mountainous. With the exception of its border with the southernmost portion of Namibia, the Republic of South Africa's borders are protected by almost 3,000 km of fencing that is electrified in some areas and topped with barbed wire. Also, some areas of the fence consist of two or more parallel fences with coils of electrified razor wire that run between the outer fences. The fences are maintained and patrolled by the country's army. The portion of its boundary with Namibia that is not fenced is too mountainous to erect a fence.

Proposed Action

Based on the documentation provided by the Government of the Republic of South Africa and the data gathered during the on-site visit by APHIS officials,[1] we are proposing to recognize all of the Republic of South Africa as free of rinderpest and all of the Republic of South Africa, except Kruger National Park and the remainder of the FMD-controlled area, as free of FMD. Accordingly, we would add the Republic of South Africa, except Kruger National Park and the remainder of the FMD-controlled area, to § 94.1(a)(2) as a region free of rinderpest and FMD. We would also amend § 94.1(a)(3) by listing the Republic of South Africa as a region free of rinderpest.

These proposed actions would remove: (1) The rinderpest-based prohibitions on the importation of live ruminants and swine and fresh (chilled or frozen) meat from ruminants and swine from the Republic of South Africa, and the FMD-based prohibitions on such importations from the Republic of South Africa, except for Kruger National Park and the remainder of the FMD-controlled area; (2) the rinderpest-based restrictions on the importation of milk and milk products from ruminants and swine from the Republic of South Africa, and the FMD-based restrictions on such importations from the Republic of South Africa, except for Kruger National Park and the remainder of the FMD-controlled area; (3) the rinderpest-based restrictions on the importation of organs, glands, extracts, and secretions from ruminants and swine from the Republic of South Africa, and the FMD-based restrictions on such importations from the Republic of South Africa, except for Kruger National Park and the remainder of the FMD-controlled area; and (4) the rinderpest-based restrictions on the importation of semen and embryos from ruminants and swine from the Republic of South Africa, and the FMD-based restrictions on such importations from the Republic of South Africa, except for Kruger National Park and the remainder of the FMD-controlled area.

However, because APHIS considers the Republic of South Africa to be affected with hog cholera, African swine fever, and swine vesicular disease, pork and pork products from all regions of the Republic of South Africa would remain subject to the restrictions in § 94.8 for African swine fever, § 94.9 for hog cholera, and § 94.12 for swine vesicular disease. Similarly, dry cured pork products would only be allowed importation from the Republic of South Africa in accordance with § 94.17. In addition, because of the presence of these swine diseases, we would continue to prohibit the importation of live swine into the United States from any part of the Republic of South Africa, except as provided in 9 CFR part 93 for wild swine. Finally, the importation of ruminant and swine embryos and semen

[1] A risk assessment has been prepared for this action and is available upon written request from the person listed under **FOR FURTHER INFORMATION CONTACT**.

from the Republic of South Africa would be restricted as provided in subparts B and C of 9 CFR part 98 due to the presence of other ruminant and swine diseases.

We are also proposing to add the proposed FMD-free area of the Republic of South Africa to the list in § 94.11(a) of regions declared free of rinderpest and FMD but are subject to special restrictions on the importation of their meat and other animal products into the United States. The regions listed in § 94.11(a) are subject to these special restrictions because they: (1) Supplement their national meat supply by importing fresh (chilled or frozen) meat of ruminants or swine from regions that are designated in § 94.1(a) as regions where rinderpest or FMD exists; or (2) have a common land border with regions where rinderpest or FMD exists; or (3) import ruminants or swine from regions where rinderpest or FMD exists under conditions less restrictive than would be acceptable for importation into the United States.

The Republic of South Africa supplements its national meat supply by importing fresh (chilled or frozen) meat of ruminants and swine from regions designated in § 94.1(a)(1) as regions in which rinderpest or FMD exists. In addition, the Republic of South Africa shares common land borders with regions designated in § 94.1(a)(1) as regions in which rinderpest or FMD exists. Furthermore, the Republic of South Africa imports live ruminants and swine from regions not recognized as free of rinderpest or FMD under conditions less restrictive than would be acceptable for importation into the United States. As a result, there is some risk that the meat and other animal products produced by the Republic of South Africa could be commingled with the fresh (chilled or frozen) meat of animals from a region in which rinderpest and FMD exists and present an undue risk of introducing rinderpest or FMD into the United States if imported without restriction.

Under § 94.11, meat and other animal products of ruminants and swine, including ship stores, airplane meals, and baggage containing these meat or animal products, may not be imported into the United States except in accordance with § 94.11 and applicable requirements of the USDA's Food Safety and Inspection Service at 9 CFR chapter III.

Section 94.11 generally requires that the meat and other animal products of ruminants and swine be: (1) Prepared in an inspected establishment that is eligible to have its products imported into the United States under the Federal Meat Inspection Act; and (2) accompanied by an additional certificate, issued by a full-time salaried veterinary official of the national government of the exporting region, assuring that the meat or other animal products have not been commingled with or exposed to meat or other animal products originating in, imported from, transported through, or that have otherwise been in a region where rinderpest or FMD exists.

On October 28, 1997, we published a final rule and policy statement in the **Federal Register** that established procedures for recognizing regions, rather than only countries, for the purpose of importing animals and animal products into the United States, and that established procedures by which regions may request permission to export animals and animal products to the United States under specified conditions, based on the regions' disease status (see 62 FR 56000–56033, Dockets 94–106–8 and 94–106–9). The final rule was effective on November 28, 1997. The request from the Republic of South Africa addressed by this proposed rule is a request to be recognized as two regions with respect to FMD. The Republic of South Africa provided documentation to support that the entire country is free of rinderpest. That Government also provided documentation to support that the Republic of South Africa, except Kruger National Park and the remainder of the FMD-controlled area, is free of FMD. Therefore, we have handled and evaluated this request in the traditional framework of recognizing a region as free or not free of a specified disease. This action does not involve establishment of any additional restrictions on animals or animal products from the Republic of South Africa.

Miscellaneous

In § 94.1(b)(1), reference is made to part 92 for the importation of ruminants and swine. In Docket No. 94–106–9, referenced previously in this document, we redesignated part 92 as part 93. This citation was not redesignated at that time due to our oversight. We are proposing to correct that oversight in this document.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule would declare all of the Republic of South Africa free of rinderpest and the Republic of South Africa, except Kruger National Park and the remainder of the FMD-controlled area, free of FMD. This proposed rule would not relieve restrictions imposed on the importation of swine and pork or pork products because APHIS considers the Republic of South Africa as affected with hog cholera, African swine fever, and swine vesicular disease. In addition, since the Republic of South Africa shares land borders and maintains trading relationships with FMD-affected regions, ruminant meat and other products imported into the United States from the Republic of South Africa would still be subject to certain restrictions under this proposed rule.

The cattle industry in the Republic of South Africa is small relative to the cattle industry in the United States. In 1997, there were more than 101 million head of cattle in the United States, compared to more than 13 million in the Republic of South Africa. Of the 2 million head of cattle that were imported into the United States in 1996, more than 99 percent were from Canada and Mexico. Sheep and goat inventories are much larger in the Republic of South Africa than in the United States. In 1997, there were more than 35 million sheep and goats in the Republic of South Africa, compared to more than 7 million sheep and goats in the United States. Of the sheep that the United States imports, more than 99 percent are from Canada and Mexico (''World Trade Atlas,'' June 1997). In 1995, the United States imported 460 goats and sheep from the Republic of South Africa; however, since 1995, the United States has not imported any live goats and sheep from the Republic of South Africa. We do not believe that adoption of this proposed rule would result in any significant increase in the number of live ruminants imported into the United States from the Republic of South Africa because the United States imports ruminants primarily from Canada and Mexico.

We also do not believe that adoption of this proposed rule would result in any significant increase in the amount of ruminant meat (beef, veal, mutton, and goat meat) and meat products imported into the United States from the Republic of South Africa. The Republic of South Africa's production of ruminant meat in 1997 was 1,542 million pounds, compared to 26,089 million pounds of ruminant meat produced in the United States. In 1997, the Republic of South Africa imported 196 million pounds of ruminant meat

and exported 44 million pounds of ruminant meat. The Republic of South Africa primarily trades with the European Union, Middle East, Japan, Korea, Australia, New Zealand, and neighboring African countries. The United States obtains more than 85 percent of its imports of ruminant meat and meat products from Australia, Canada, and New Zealand. Any effect on domestic supplies of ruminant meat and meat products would be negligible because we believe that it is unlikely that the Republic of South Africa would redirect a significant portion of its ruminant meat production for export exclusively to the United States if this proposed rule is adopted, given that restrictions would remain in place for imports into the United States.

The importation of dairy products from the Republic of South Africa into the United States should also be minimally affected by this rule. In 1997, U.S. exports and imports of dairy products were valued at $727 million and $1,274 million, respectively. In 1997, the United States exported $3,391,000 worth of dairy products to the Republic of South Africa and imported only $2,000 worth of dairy products from the Republic of South Africa. We believe that it is highly unlikely that the United States would import a significant amount of dairy products from the Republic of South Africa because the United States is a significant net exporter of those products to the Republic of South Africa. Therefore, the impact on domestic dairy producers should be minimal.

The importation of ruminant embryos and semen from the Republic of South Africa into the United States should also be minimally affected by this rule. The United States is a net exporter of both bovine semen and cattle embryos. In 1996, the value of U.S. bovine semen and cattle embryo imports was $7.7 million and $701,000, respectively, while the value of U.S. exports of bovine semen and cattle embryos was $63.1 million and $12.6 million, respectively (''World Trade Atlas,'' June 1997). Due to the trade balance and the size differences between the cattle industries of the United States and the Republic of South Africa, the amount of embryos and semen imported will likely be minimal and have a minimal impact on small domestic cattle producers.

The entities most likely to be affected by this proposed rule are those entities engaged in the production of live ruminants and ruminant meat and meat products. The Small Business Administration's (SBA's) definition of a small cattle farm is one whose total sales is less than $0.5 million annually. In 1992, 97.8 percent of cattle and calf farms in the United States would have been considered small entities.

The SBA's guidelines state that a small producer of pork and ruminant products (part of Standard Industrial Classification (SIC) 2011 or 2013, meat packing plants) is one employing fewer than 500 workers. In 1992, 97 percent of the 1,367 meat packing establishments in SIC 2011 were considered small entities. These small establishments accounted for approximately 40 percent of the total value of shipments of the industry, or $50.4 billion. In 1992, 98 percent of the 1,264 establishments in SIC 2013 were considered small entities. These producers accounted for 84 percent of the total value of shipments of the industry, or $19.97 billion.

Although the majority of the domestic entities potentially affected by this proposed rule are small, there should be only a minimal change in the level of imports that may compete with the production of these small entities, and thus there would be a minimal impact on any domestic producer of these products, whether small or large.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this proposed rule. The assessment provides a basis for the conclusion that the importation of certain live animals and animal products from all regions of the Republic of South Africa, except Kruger National Park and the remainder of the foot-and-mouth disease controlled area, would not present a significant risk of introducing or disseminating FMD or rinderpest disease agents into the United States and would not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are proposing to amend 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

§ 94.1 [Amended]

2. Section 94.1 would be amended as follows:

a. In paragraph (a)(2), by adding the words ''Republic of South Africa (except Kruger National Park and the remainder of the foot-and-mouth disease controlled area that separates the foot-and-mouth

disease free area of the Republic of South Africa from Kruger National Park and the regions along the Republic of South Africa's northern border),'' immediately after ''Republic of Korea,''.

b. In paragraph (a)(3), by adding the words ''and the Republic of South Africa'' immediately after ''Greece''.

c. In paragraph (b)(1), the reference ''part 92'' would be removed and the reference ''part 93'' would be added in its place.

§ 94.11 [Amended]

3. In § 94.11, paragraph (a) would be amended by adding, in the first sentence, the words ''Republic of South Africa (except Kruger National Park and the remainder of the foot-and-mouth disease controlled area that separates the foot-and-mouth disease free area of the Republic of South Africa from Kruger National Park and the regions along the Republic of South Africa's northern border),'' immediately after ''Republic of Korea,''.

Done in Washington, DC, this 10th day of February 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–3866 Filed 2–16–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–323–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757–200, –200PF, and –200CB Series Airplanes Powered by Rolls-Royce RB211–535C/E4/E4B Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 757–200, –200PF, and –200CB series airplanes. This proposal would require modification of the engine thrust control cable installation, and repetitive inspections to detect certain discrepancies of the cables, pulleys, pulley brackets, and cable travel; and repair, if necessary. This proposal is prompted by reports of failure of certain engine thrust control cables. The actions specified by the proposed AD are intended to prevent such failures, which could result in a severe asymmetric thrust condition during landing, and consequent reduced controllability of the airplane.

DATES: Comments must be received by April 5, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–323–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Kathrine Rask, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1547; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–323–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–323–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In 1985, the FAA received a report indicating that a Boeing Model 747–100 series airplane had experienced a thrust control 'B' cable failure following application of reverse thrust during landing. This failure caused engine number 1 to advance to full forward thrust with engine numbers 2, 3, and 4 in full reverse thrust. The airplane exited the runway and eventually slid to a stop with consequent hull damage.

In April 1997, during a review of the certification plan for Boeing Model 757–300 series airplanes, Boeing informed the FAA that the thrust control cable installation on Boeing Model 757–200, –200PF, and –200CB series airplanes, equipped with Rolls Royce engines, is similar to the thrust control cable installation on the Boeing Model 747–100 series airplane, and that a similar failure could result in subsequent runway departure. Such a failure mode was examined during the type certification of the Boeing Model 757–200 series airplane and, at that time, the consensus was that the airplane would be controllable following a thrust control 'B' cable failure. The 1985 report and subsequent testing of a Model 757–200 series airplane contradicted this assumption.

The FAA recently has received a report of uncommanded advancement of the right thrust lever on a Boeing Model 757–200 series airplane during flight. Subsequently, the engine power began steadily increasing. In order to reduce the engine power, the flight crew set the lever to the idle stop position; however, the engine power continued to increase. The flight crew then used the cut-off lever to stop the engine as it approached the maximum speed. After the airplane landed, a close visual inspection revealed that the thrust control cable had broken due to continuous chafing against the adjacent wire bundle that supplies power to the right window heater. Such failure of a thrust control cable could result in a severe asymmetric thrust condition during landing, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved the following service bulletins:

- Boeing Service Bulletin 757–76–1, dated May 18, 1984, which describes procedures for removal of the guide bracket of the engine thrust control cable that is located on the front spar of the right wing.
- Boeing Service Bulletin 757–76–0005, dated May 5, 1988, which describes procedures for replacement of sections of the engine thrust control cables with smaller diameter cables, and removal of the engine cable breakaway stop assemblies.
- Boeing Alert Service Bulletin 757–30A0018, Revision 1, dated September 17, 1998, which describes procedures for installation of a support bracket assembly between the window heat wire bundle and the engine thrust control cable, and adjustment of the wire bundle, if necessary, to maintain necessary clearance.

Accomplishment of the actions specified in the service bulletins described previously, and the repetitive inspection mandated by this AD, is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require modification of the engine thrust control cable installation and repetitive inspections to detect certain discrepancies of the cables, pulleys, pulley brackets, and cable travel; and repair, if necessary. The actions would be required to be accomplished in accordance with the procedure included in paragraph (a) of this AD, the service bulletins described previously, and the airplane maintenance manual.

Justification of Compliance Time

This proposed AD includes a procedure to inspect the engine thrust control cables, pulleys, pulley brackets, and cable travel, which is similar to the inspection for control cables contained in Chapter 20–20–02 of the 757 Maintenance Manual. Although the Boeing Maintenance Planning Document (MPD) recommends that an inspection of the engine thrust control cables be conducted in accordance with Chapter 20–20–02 at every ''2C'' check, this proposed AD requires repetitive inspections at intervals of 18 months or 6,000 flight hours (whichever occurs first), which corresponds with a ''C'' check interval. The FAA has no evidence that indicates that the Model 757 series airplane that experienced the thrust control cable failure was not adhering to those recommendations; therefore, the FAA has determined that the repetitive inspections of the thrust control cables, pulleys, pulley brackets, and cable travel must be done on a more frequent basis than that specified in the MPD.

Cost Impact

There are approximately 450 airplanes of the affected design in the worldwide fleet. The FAA estimates that 228 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 3 work hours per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $41,040, or $180 per airplane, per inspection cycle.

For airplanes identified in Boeing Service Bulletin 757–76–1 (8 U.S.-registered airplanes), it would take approximately 2 work hours per airplane to accomplish the proposed guide bracket removal, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $960, or $120 per airplane.

For airplanes identified in Boeing Service Bulletin 757–76–0005 (14 U.S.-registered airplanes), it would take approximately 14 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $11,760, or $840 per airplane.

For airplanes identified in Boeing Alert Service Bulletin 757–30A0018, Revision 1 (167 U.S.-registered airplanes), it would take approximately 2 work hours per airplane to accomplish the proposed installation and adjustment, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $20,040, or $120 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 98–NM–323–AD.

Applicability: Model 757–200, –200PF, and –200CB series airplanes powered by Rolls-Royce RB211–535C/E4/E4B turbofan engines, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the

requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent engine thrust control cable failure, which could result in a severe asymmetric thrust condition during landing, and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 18 months or 6,000 flight hours after the effective date of this AD, whichever occurs first: Accomplish the ''Thrust Control Cable Inspection Procedure'' specified in Appendix 1 (including Figures 1 and 2) of this AD to verify the integrity of the thrust control cables. Prior to further flight, repair any discrepancy found in accordance with the procedures described in the Boeing 757 Maintenance Manual. Repeat the inspection thereafter at intervals not to exceed 18 months or 6,000 flight hours, whichever occurs first.

(b) For airplanes identified in Boeing Service Bulletin 757–76–1, dated May 18, 1984: Within 18 months or 6,000 flight hours after the effective date of this AD, whichever occurs first, remove the guide bracket of the engine thrust control cable located on the front spar of the right wing in accordance with the service bulletin.

(c) For airplanes identified in Boeing Service Bulletin 757–76–0005, dated May 5, 1988: Within 18 months or 6,000 flight hours after the effective date of this AD, whichever occurs first, remove the engine thrust control cable breakaway stop assemblies, and replace sections of the engine thrust control cables with smaller diameter cables in accordance with the service bulletin.

(d) For airplanes identified in Boeing Alert Service Bulletin 757–30A0018, Revision 1, dated September 17, 1998: Within 60 days after the effective date of this AD, install a support bracket assembly between the window heat wire bundle and the engine thrust control cable; and adjust the wire bundle clearance, as necessary, to parallel the minimum clearance specified in the alert service bulletin.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Appendix 1.—Thrust Control Cable Inspection Procedure

1. General

A. Use these procedures to test the integrity of the thrust control cables. The procedures must be performed along the entire cable run for each engine.

B. The first task is an inspection of the control cable. The second task is an inspection of the control cable pulley. The third task is an inspection of the control cable pulley bracket. The fourth task is an inspection of control cable travel.

2. Inspection of the Control Cables

A. Clean the cables (if necessary) for the inspection, in accordance with 757 Maintenance Manual 12–12–31.

B. Examine the cables:

(1) To do a check for broken wires, rub a cloth along the length of the cable. The cloth catches broken wires.

(2) To aid in the visual inspection, remove the tension and bend the cable. Broken wire ends frequently move apart from the cable surface. Use large bend radius to prevent kinks.

Note: Wires break most frequently where cables go through fairleads or around pulleys. Examine these areas carefully.

C. Remove the control cable from the airplane when you find one of these conditions:

(1) If one cable strand has worn wires where one wire cross section is decreased by 40 percent or more in an area that goes over a pulley, through a pressure seal, or through a fairlead (see Figure 1).

(2) A broken wire in the area that goes over a pulley, through a pressure seal, or through a fairlead.

Note: A cable assembly can have one broken wire if the broken wire is in a straight part of the cable assembly. The broken wire must not go over a pulley or through a pressure seal or fairlead. The cable must agree with the other specifications of this section.

(3) Two or more broken wires.

(4) A nick or cut.

(5) Rust or corrosion.

D. Lubricate the cable (if you removed the lubricant), in accordance with 757 Maintenance Manual 12–12–31.

Note: Do not apply grease to CRES cables.

3. Inspection of the Control Cable Pulley

A. Visually examine the pulleys for roughness, sharp edges, and unwanted material in the grooves.

B. Visually examine the pulley wear pattern (see Figure 2).

C. Do these steps at the same time to examine the pulley for wobble:

(1) Push on the side of the pulley at the outer edge with a 2-pound force, perpendicular to control cable travel.

(2) Make sure the movement of the outer edge is no more than:

(a) 0.10 inch for 8-inch diameter pulleys.

(b) 0.09 inch for 6-inch diameter pulleys.

(c) 0.08 inch for 5-inch diameter pulleys.

(d) 0.07 inch for 4-inch diameter pulleys.

(e) 0.06 inch for 3-inch diameter pulleys.

D. Make sure the pulley bearings have lubrication and turn smoothly.

E. Examine the pulley bolts for wear.

F. Remove the pulley from the airplane when you find one of these conditions:

(1) An unusual pulley wear pattern.

(2) Too much pulley wobble.

(3) The pulley does not turn freely and smoothly.

4. Inspection of the Control Cable Pulley Bracket

A. Examine the brackets and the support structure for cracks or other damage.

B. Replace or repair all brackets or structure that have damage.

5. Inspection of the Cable Travel

A. Make sure the cable guides and fairleads have no worn or broken parts and that the parts are aligned, clean, and attached correctly.

B. Make sure the deflection angle at each fairlead is not more than 3 degrees.

C. Visually examine the cable runs for incorrect routing or twists in the cable.

D. Make sure the cable moves freely through its full travel, and does not contact structure, wire bundles, or tubing.

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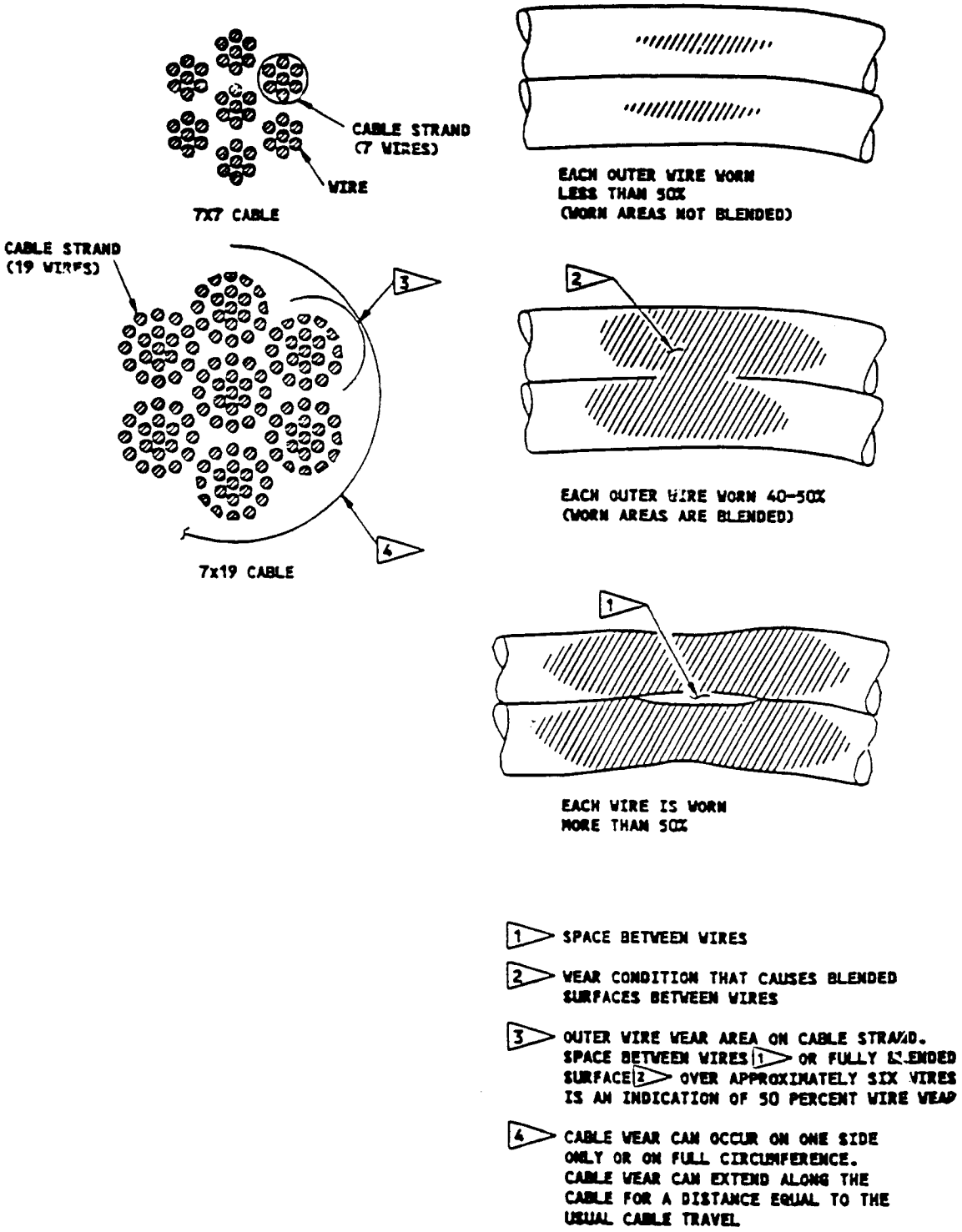
CABLE STRAND
(7 WIRES)
WIRE
7X7 CABLE
CABLE STRAND
(19 WIRES)
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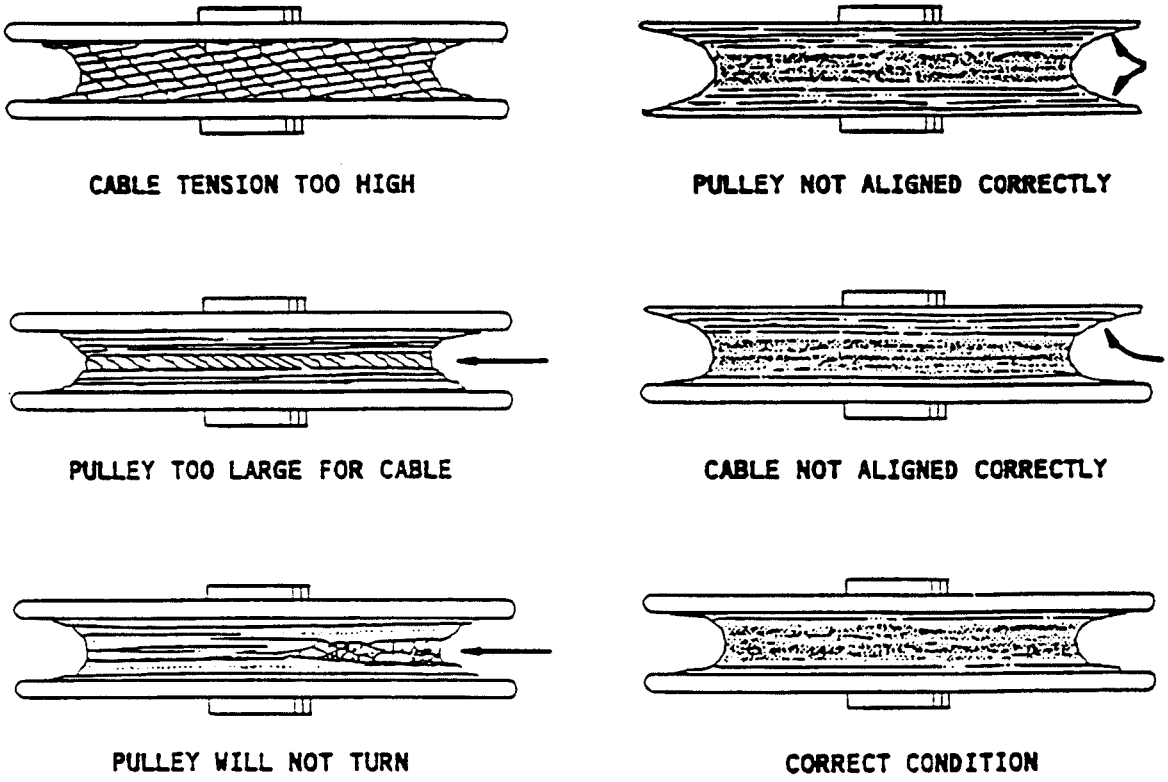
4
7x19 CABLE
EACH OUTER WIRE WORN
LESS THAN 50%
(WORN AREAS NOT BLENDED)
2
EACH OUTER WIRE WORN 40-50%
(WORN AREAS ARE BLENDED)
1
EACH WIRE IS WORN
MORE THAN 50%
1 SPACE BETWEEN WIRES
2 WEAR CONDITION THAT CAUSES BLENDED SURFACES BETWEEN WIRES
3 OUTER WIRE WEAR AREA ON CABLE STRAND. SPACE BETWEEN WIRES 1 OR FULLY BLENDED SURFACE 2 OVER APPROXIMATELY SIX WIRES IS AN INDICATION OF 50 PERCENT WIRE WEAR
4 CABLE WEAR CAN OCCUR ON ONE SIDE ONLY OR ON FULL CIRCUMFERENCE. CABLE WEAR CAN EXTEND ALONG THE CABLE FOR A DISTANCE EQUAL TO THE USUAL CABLE TRAVEL

Figure 1.



Pulley Wear Patterns

Figure 2.

Issued in Renton, Washington, on February 9, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–3736 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–06–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 757–200 series airplanes. This proposal would require modification of the off-wing emergency evacuation slide system. This proposal is prompted by reports that a certain type of off-wing escape slide aboard several airplanes deployed and separated from the airplane during flight. The actions specified by the proposed AD are intended to prevent separation of the emergency evacuation slide from the airplane, which could result in damage to the fuselage and unavailability of an escape slide during an emergency evacuation.

DATES: Comments must be received by April 5, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–06–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Keith Ladderud, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2780; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–06–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–06–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that in-flight deployment and separation of the off-wing emergency evacuation slide occurred on several Boeing Model 757–200 series airplanes. In each of these incidents, the slide compartment door opened, the slide carrier rotated out, and the slide deployed. In addition, the deployed slide was torn off by the airstream and caused damage to the fuselage located aft of the slide compartment. In one incident, the inboard flaps also were damaged. These deployments are attributed to the fact that, during maintenance, the slide compartment door was not properly latched following replacement of the slide. Further analysis revealed that a visual inspection of the door latch to verify that the latch is fastened is difficult; the aft location of the door sensor may not show that the door is not latched; and incorrect installation of the lockbase retainer on the door latch tube can prevent locking the door in the latched position. These conditions, if not corrected, could result in in-flight deployment and separation of the emergency evacuation slide from the airplane, damage to the fuselage, and unavailability of an escape slide during an emergency evacuation.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 757–25–0182, Revision 1, dated June 12, 1997; and Boeing Service Bulletin 757–25–0200, dated January 21, 1999; which describe procedures for modification of the left and right off-wing emergency evacuation slide systems.

The modification described in Boeing Service Bulletin 757–25–0182, Revision 1, includes replacement of the bearings and lockbase retainer in the compartment door latch assembly with new bearings and a new lockbase retainer, relocation and adjustment of the sensor target and the sensor proximity switch to forward locations on the evacuation slide compartment doors, and a functional test following modification.

The modification described in Boeing Service Bulletin 757–25–0200 includes installation of a bumper assembly on the off-wing slide carrier and installation of new placards in the area of the maintenance access door.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require modification of the off-wing emergency evacuation slide system. The actions would be required to be accomplished in accordance with the service bulletins described previously, except as discussed below.

Difference Between Proposed Rule and Service Bulletins

Operators should note that, although the service bulletins recommend accomplishment of the modification at the next scheduled maintenance, or as

soon as manpower and materials are available, the FAA has determined that an 18-month compliance time would address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the modification. In light of all of these factors, the FAA finds an 18-month compliance time for completion of the proposed modification to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 497 airplanes of the affected design in the worldwide fleet. The FAA estimates that 435 airplanes of U.S. registry would be affected by this proposed AD.

For airplanes identified in Boeing Service Bulletin 757–25–0182, Revision 1 (301 U.S.-registered airplanes), it would take approximately 40 work hours per airplane to accomplish the proposed modification of the door latch system, at an average labor rate of $60 per work hour. Required parts would cost approximately $1,450 per airplane. Based on these figures, the cost impact of the proposed modification on U.S. operators is estimated to be $1,158,850, or $3,850 per airplane.

For airplanes identified in Boeing Service Bulletin 757–25–0200 (435 U.S.-registered airplanes), it would take approximately 4 work hours to accomplish the proposed installation of the bumper assembly and placards, at an average labor rate of $60 per work hour. Required parts would cost approximately $457 per airplane. Based on these figures, the cost impact of the proposed installation on U.S. operators is estimated to be $303,195, or $697 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 99–NM–06–AD.

Applicability: Model 757–200 series airplanes equipped with off-wing emergency evacuation slides, as listed in Boeing Service Bulletin 757–25–0182, Revision 1, dated June 12, 1997, or Boeing Service Bulletin 757–25–0200, dated January 21, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the emergency evacuation slide from the airplane, which could result in damage to the fuselage and unavailability of an escape slide during an emergency evacuation, accomplish the following:

(a) Within 18 months after the effective date of this AD: Modify the left and right off-wing emergency evacuation slide systems by accomplishment of paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For airplanes listed in Boeing Service Bulletin 757–25–0182, Revision 1, dated June 12, 1997: Modify the door latch system of the left and right off-wing emergency evacuation slide systems in accordance with the service bulletin.

Note 2: Modification of the door latch system of the off-wing emergency evacuation slide system, prior to the effective date of this AD, in accordance with Boeing Service Bulletin 757–25–0182, dated October 10, 1996, is considered acceptable for compliance with paragraph (a)(1) of this AD.

(2) For airplanes listed in Boeing Service Bulletin 757–25–0200, dated January 21, 1999: Install a bumper assembly on the bottom of the left and right off-wing escape slide carriers, and install new placards in the area of the maintenance access door, in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 9, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–3735 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–193–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes. This proposal would require a one-time inspection to detect discrepancies of the wire expando sleeve of the wire bundles adjacent to the landing gear control lever module; certain follow-on actions and repair, if necessary; and wrapping the wire expando sleeve with tape or zippertubing and tape. This proposal is prompted by reports indicating that the landing gear failed to extend on an in-service airplane, and that the cable of the landing gear control lever was severed on a second in-service airplane. The actions specified by the proposed AD are intended to prevent interference and consequent arcing between the landing gear control lever and the wire bundles adjacent to the landing gear control lever module, which could result in inability to extend the landing gear prior to landing.

DATES: Comments must be received by April 5, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–193–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Elias Natsiopoulos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1279; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–193–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–193–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that, prior to landing an in-service Boeing Model 767 series airplane, the flightcrew was unable to extend the landing gear because the landing gear control lever failed to move from the ''UP'' to ''OFF'' position. Consequently, the flightcrew was forced to extend the landing gear by depressurizing the center hydraulic system.

In addition, the FAA has received a report indicating that, following take-off of a second Boeing Model 767 series airplane, the flightcrew was unable to retract the landing gear. The flightcrew was forced to return the airplane to its original departure airport. Investigation revealed that the landing gear control lever interfered with the wire expando sleeve, which contains the wire bundles of the alternate extension system of the landing gear. This interference caused the wires of the alternate extension system of the landing gear to arc. Repeated arcing over a period of time severed the cable of the landing gear control lever. This condition, if not corrected, could result in inability to extend the landing gear prior to landing.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–32A0163, dated March 5, 1998, and Boeing Service Bulletin 767–32A0163, Revision 1, dated October 1, 1998. The alert service bulletin and Revision 1 describe procedures for a one-time visual inspection to detect discrepancies (i.e., cuts, abrasions, fraying, and arcing) of the wire expando sleeve of the wire bundles adjacent to the landing gear control lever module; certain follow-on actions (i.e., visual inspection of the varglas layer and wire bundles adjacent to the landing gear control lever module), if necessary; and repair, if necessary. The alert service bulletin and Revision 1 also describe procedures for wrapping the wire expando sleeve with tape or zippertubing and tape. Accomplishment of the actions specified in the alert service bulletin or Revision 1 is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the alert service bulletin or Revision 1 described previously.

Cost Impact

There are approximately 666 airplanes of the affected design in the worldwide fleet. The FAA estimates that 268 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed actions, at an average labor rate of $60 per work hour. The cost of required parts would be nominal. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $16,080, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD

action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 98–NM–193–AD.

Applicability: Model 767 series airplanes, as listed in Boeing Alert Service Bulletin 767–32A0163, Revision 1, October 1, 1998; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent interference and consequent arcing between the movement of the landing gear control lever and the wire bundles adjacent to the landing gear control lever module, which could result in inability to extend the landing gear prior to landing, accomplish the following:

(a) Within 90 days after the effective date of this AD, perform a one-time visual inspection to detect discrepancies (i.e., cut, abrasion, fraying, and arcing) of the wire expando sleeve of the wire bundles adjacent to the landing gear control lever module, in accordance with Boeing Alert Service Bulletin 767–32A0163, dated March 5, 1998, or Revision 1, dated October 1, 1998.

(1) If no discrepancy of the wire expando sleeve is detected, prior to further flight, wrap the wire expando sleeve with tape or zippertubing and tape, in accordance with the alert service bulletin or Revision 1.

(2) If any discrepancy of the wire expando sleeve is detected, prior to further flight, perform a visual inspection to detect discrepancies of the varglas layer, in accordance with the alert service bulletin or Revision 1.

(i) If no discrepancy of the varglas layer is detected, prior to further flight, repair the wire expando sleeve and wrap it with tape or zippertubing and tape, in accordance with the alert service bulletin or Revision 1.

(ii) If any discrepancy of the varglas layer is detected, prior to further flight, perform a visual inspection to detect discrepancies of the wire bundles, in accordance with the alert service bulletin or Revision 1.

(A) If no discrepancy of the wire bundles is detected, prior to further flight, rewrap the wires with new varglas layer, repair the wire expando sleeve, and wrap the wire expando sleeve with tape or zippertubing and tape, in accordance with the alert service bulletin or Revision 1.

(B) If any discrepancy of the wire bundles is detected, prior to further flight, repair the wires, rewrap the wire bundles with new varglas layer, repair wire expando sleeve, and wrap the wire expando sleeve with tape or zippertubing and tape, in accordance with the alert service bulletin or Revision 1.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 9, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–3734 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–214–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to all British Aerospace (Jetstream) Model 4101 airplanes. That proposal would have required repetitively inspecting to detect damage of the structure associated with the engine nacelle fairing attached to the wing flaps, and repair of any damage found; drilling a new drain hole in each engine nacelle fairing; and applying a sealant to the gap between the wing flap and engine nacelle fairing. That proposal was prompted by reports of fatigue cracks found in the structure that attaches the engine nacelle fairing to the wing flaps. This new action revises the proposed AD by adding requirements to perform corrective actions for discrepancies and accomplish a modification that would terminate the repetitive inspections. This new action also would limit the applicability. The actions specified by this new proposed AD are intended to prevent such fatigue cracking, which could result in the partial or complete separation of the fairing from the wing flap, and consequent additional structural damage to the airframe and/or reduced controllability of the airplane.

DATES: Comments must be received by March 15, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 96–NM–214–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–214–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 96–NM–214–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to all British Aerospace (Jetstream) Model 4101 airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on May 14, 1997 (62 FR 26456). That NPRM would have required repetitive inspections of the structure associated with the engine nacelle fairing that is attached to the left and right flaps of the wings for damage, and repair of any damage found. That NPRM also would have required drilling a new drain hole in each engine nacelle fairing and applying a sealant to the gap between the wing flap and engine nacelle fairing. That NPRM was prompted by reports indicating that fatigue cracks were found in the structure that attaches the engine nacelle fairing to the wing flaps on the affected airplanes. That condition, if not corrected, could result in the engine nacelle fairing partially or completely separating from the wing flap, and consequent additional structural damage to the airframe and/or reduced controllability of the airplane.

Actions Since Issuance of NPRM

Since the issuance of the original NPRM, the manufacturer has issued Jetstream Alert Service Bulletin J41–A57–015, Revision 1, dated August 23, 1996, and Revision 2, dated June 30, 1997. These revisions differ in several ways from the original version of the alert service bulletin, which was referenced in the original NPRM as the appropriate source of service information for accomplishment of the inspection and repair of certain conditions. Revision 1 of the alert service bulletin adds an additional procedure to the visual inspection to detect installation of nonstandard parts (as defined in Figure 1. of the alert service bulletin) in the flap structure that attaches the flap nacelle fairing, and describes procedures for application of a certain primer to be applied in conjunction with sealant on stainless steel. Revision 2 of the alert service bulletin limits the effectivity listing to airplanes on which both Jetstream Modification JM41575B and Modification JM41575C have not been accomplished. The procedures described in Revision 1 and Revision 2 are otherwise identical to those in the original version. The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, classified these revisions of the alert service bulletin as mandatory.

The manufacturer also has issued Jetstream Service Bulletin J41–57–017, dated May 9, 1997, which describes procedures for modification of the flap structure to strengthen the attachment for the flap nacelle fairing. The modification includes installation of new inboard and outboard ribs and new land angles. Accomplishment of the modification would eliminate the need for the repetitive inspections specified in Jetstream Alert Service Bulletin J41–A57–015 (described previously). The CAA classified this alert service bulletin as optional.

Accomplishment of the actions described in the service bulletins is intended to adequately address the identified unsafe condition.

Changes to Original NPRM

The FAA concludes that, to positively address the identified unsafe condition, the original NPRM must be revised to require the accomplishment of certain actions in accordance with Revision 1 or Revision 2 of Jetstream Alert Service Bulletin J41–A57–015 because certain procedures for the inspection and primer application were added to Revision 1 and retained in Revision 2. The original NPRM also must be revised to limit the applicability to airplanes on which the terminating modification has not been accomplished in production. In addition, the original NPRM must be revised to require modification of the wing flap structure by the installation of additional flap nacelle fairing support structure on each wing flap. This supplemental NPRM would require accomplishment of the actions specified in the alert service bulletins described previously, except as discussed below.

In addition, the FAA notes that the location for the inspections and follow-on actions was inadvertently identified as ''the engine nacelle fairing.'' This proposed AD correctly identifies that location as ''the flap nacelle fairing.''

Differences Between Proposed Rule and Relevant Service Information

Operators should note that this supplemental NPRM proposes to require the modification described in Jetstream Service Bulletin J41–57–017 as terminating action for the repetitive inspections. The FAA has determined that long-term continued operational safety will be better assured by design

changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not provide the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed modification requirement is in consonance with these conditions.

Operators also should note that, although Jetstream Alert Service Bulletin J41–A57–015 specifies that the manufacturer may be contacted for disposition of certain corrective actions, this proposal would require those corrective actions to be accomplished in accordance with a method approved by either the FAA or the CAA. In light of the type of corrective actions that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, corrective actions approved by either the FAA or the CAA would be acceptable for compliance with this proposed AD.

Conclusion

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

The FAA estimates that 51 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 2 work hours per airplane to perform the detailed visual inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $6,120, or $120 per airplane, per inspection cycle.

It would take approximately 1 work hour per airplane to drill a drain hole and apply primer and sealant, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these actions proposed by this AD on U.S. operators is estimated to be $3,060, or $60 per airplane.

It would take approximately 90 work hours per airplane to accomplish the proposed terminating modification, at an average labor rate of $60 per work hour. Required parts would cost approximately $2,658 per airplane. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $410,958, or $8,058 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Docket 96–NM–214–AD.

Applicability: Model (Jetstream) Model 4101 airplanes, excluding those on which Jetstream Modifications JM41575B and JM41575C have been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking in the structure that attaches the flap nacelle fairing to the wing flaps, which could result in the partial or complete separation of the fairing from the wing flap, and consequent additional structural damage to the airframe and/or reduced controllability of the airplane, accomplish the following:

(a) Prior to the accumulation of 1,500 total hours time-in-service, or within 60 days after the effective date of this AD, whichever occurs later, accomplish the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

(1) Perform a detailed visual inspection to detect discrepancies [cracks, loose rivets and Jo-Bolts, chafing damage at the flap trailing edge, and installation of nonstandard parts (as defined in Figure 1. of Jetstream Alert Service Bulletin J41–A57–015, Revision 1, dated August 23 1996, or Revision 2, dated June 30, 1997)] and previous repairs of the flap structure that attaches the flap nacelle fairing to each wing flap; in accordance with Jetstream Alert Service Bulletin J41–A57–015, Revision 1, dated August 23, 1996, or Revision 2, dated June 30, 1997. Repeat the inspection thereafter at intervals not to exceed 1,500 hours time-in-service until the requirements of paragraph (b) of this AD have been accomplished.

(i) Except as provided by paragraph (a)(1)(ii) of this AD, if any discrepancy is found, prior to further flight, perform corrective action in accordance with Revision 1 or Revision 2 of the alert service bulletin.

(ii) If any discrepancy is found for which Revision 1 or Revision 2 of the alert service bulletin specifies to contact the manufacturer to obtain a repair scheme: Prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA,

Transport Airplane Directorate; or the Civil Aviation Authority (or its delegated agent).

(2) Drill a drain hole in the flap nacelle fairing on each wing flap, in accordance with Jetstream Alert Service Bulletin J41–A57–015, dated May 27, 1996, Revision 1, dated August 23, 1996, or Revision 2, dated June 30, 1997.

(3) Apply new primer and sealant to the gap between the wing flap and flap nacelle fairing, in accordance with Jetstream Alert Service Bulletin J41–A57–015, Revision 1, dated August 23, 1996, or Revision 2, dated June 30, 1997.

(b) Within 3,000 hours time-in-service after the effective date of this AD: Modify the wing flap structure in accordance with Jetstream Service Bulletin J41–57–017, dated May 9, 1997. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in British airworthiness directive 006–05–96.

Issued in Renton, Washington, on February 9, 1999.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–3727 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

14 CFR Part 382

[Docket OST–99–5099; Notice No: 99–2]

RIN 2105–AC77

Nondiscrimination on the Basis of Disability in Air Travel; Compensation for Damage to Wheelchairs and Other Assistive Devices

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Department is proposing to amend its rules implementing the Air Carrier Access Act of 1986 to lift an existing cap on the amount of compensation airlines would have to pay to passengers for loss or damage of their wheelchair users and other assistive devices. The proposal is intended to provide additional relief to passengers using expensive assistive devices when they are destroyed or seriously damaged in the course of airline travel.

DATES: Comments are requested by May 18, 1999. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Comments should be sent, preferably in triplicate, to Docket Clerk, Docket No. OST–99–5099, Department of Transportation, 400 7th Street, S.W., Room PL–401, Washington, D.C., 20590. Comments will be available for inspection at this address from 10:00 a.m. to 5:00 p.m., Monday through Friday, and are also viewable through the dockets link on the Department's web site (www.dot.gov). Commenters who wish the receipt of their comments to be acknowledged should include a stamped, self-addressed postcard with their comments. The Docket Clerk will date-stamp the postcard and mail it back to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street, S.W., Room 10424, Washington, D.C., 20590. (202) 366–9306 (voice); (202) 755–7687 (TDD); 202–366–9313 (fax); bob.ashby@ost.dot.gov (e-mail).

SUPPLEMENTARY INFORMATION: This NPRM concerns the issue of compensation for loss of or damage to wheelchairs or other assistive devices. The current regulation provides that

> With respect to domestic flights, carriers shall not limit liability for loss, damage or delay concerning wheelchairs or other mobility aids to any amount less than twice the liability limits established for passengers' luggage under 14 CFR Part 254. (14 CFR § 382.43(b)).

This means that carriers can refuse to pay compensation exceeding $2,500 for loss of or damage to wheelchairs or other assistive devices, given the present $1,250 liability limit for luggage that Part 254 permits carriers to impose in domestic transportation. People with disabilities have complained that this does not provide adequate compensation for the loss of or serious damage to expensive equipment, such as power wheelchairs that may cost $15,000 or more. Given that a passenger whose wheelchair is lost or seriously damaged will lose his or her mobility at the destination, people with disabilities believe that the Department should require airlines to do more, such as pay full compensation for the loss and make repair or loaner service available.

The Department considered this issue in the original Air Carrier Access Act (ACAA) rulemaking (see 55 FR 8038; March 6, 1990). In response to similar disability group comments at that time, the Department responded that requiring carriers to pay full replacement value did not sufficiently recognize the ability of passengers to purchase insurance for such expensive items. Consequently, the final rule permitted airlines to cap their liability at twice the liability limit for general baggage.

Nevertheless, the Department believes it may be useful to reopen the issue at this time. The Department believes, based on anecdotal information, that the majority of wheelchairs used in air travel are manual wheelchairs, many of which cost less than $2500. However, other travelers use power wheelchairs, which typically are stowed in checked baggage and many of which, if lost, damaged, or destroyed, could cost substantially more than $2500 to repair or replace (e.g., over $13,000 in one recent case brought to our attention). Consequently, there may be relatively few instances of wheelchair loss or damage that would be affected by the proposed rule change, limiting cost exposure to airlines. However, the proposed rule would mitigate the potentially severe financial hardship to individuals whose expensive wheelchairs are lost or damaged. We seek comment on need for raising or eliminating the current cap on carrier liability for damage to wheelchairs.

We also seek comment on whether additional regulatory guidance is necessary on how compensation should be calculated (e.g., depreciated value vs. replacement cost). In addition, the Department seeks comment on whether it is desirable and practical to include other requirements, such as a requirement that airlines provide a ''loaner'' device or ensure the repair of wheelchairs or other assistive devices that have been damaged in transit. This NPRM is intended to be a vehicle for comment on all these issues. The Department has not determined what, if any, changes to make in its rules.

In connection with this NPRM, we request that interested parties, including disability groups and airlines, provide information on the following points, which will help us to evaluate the necessity for rulemaking and the potential costs of a rule:

(1) The number of domestic passenger complaints (including letters of phone calls, ''Mishandled Baggage Reports,''

and claims for compensation) about lost, damaged, or destroyed wheelchairs or other assistive devices;

(2) The number of such complaints in which passengers assert that their monetary loss (e.g., the cost of repair or replacement) would exceed $2500;

(3) The average amount by which assertions of passengers' monetary losses exceeded $2500; and

(4) The availability and cost of insurance for expensive wheelchairs and other assistive devices.

We also seek information about the need, design, costs, and logistics of a ''loaner'' system.

Regulatory Analyses and Notices

This NPRM does not propose a significant rule under Executive Order 12866 or a significant rule under the Department's Regulatory Policies and Procedures. The Department does not currently have data allowing it to estimate the probable cost of the rule. The preamble asks for data that, if provided, should allow the Department to make a reasonable estimate of the costs of any final rule based on this proposal.

The Department certifies that this rule, if adopted, would not have a significant economic effect on a substantial number of small entities. The basis for this statement is the probability that the overall national annual costs would not be great. Nevertheless, the Department seeks comment on whether there are impacts on small entities the Department should consider, and what those impacts are. If comments provide information that there are significant small entity impacts, the Department will provide a regulatory flexibility analysis at the final rule stage. The Department does not believe that there would be sufficient Federalism impacts to warrant the preparation of a Federalism Assessment.

List of Subjects in 14 CFR Part 382

Aviation, Individuals with disabilities.

Issued this 8th day of February, 1999, at Washington, D.C.

Rodney E. Slater,

Secretary of Transportation.

For the reasons set forth in the preamble, the Department proposes to amend 14 CFR part 382 as follows:

1. The authority citation for 14 CFR part 382 is proposed to continue to read as follows:

Authority: 49 U.S.C. 41702, 41705, and 41712.

2. In § 382.43, paragraph (b) is proposed to be revised to read as follows:

§ 382.43 Treatment of mobility aids and assistive devices.

* * * * *

(b) With respect to domestic transportation, the baggage liability limits of 14 CFR part 254 do not apply to liability for loss, damage, or delay concerning wheelchairs or other asssistive devices.

* * * * *

[FR Doc. 99–3760 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket No. 98N–1038]

Irradiation in the Production, Processing, and Handling of Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is considering proposing revisions of its labeling requirements for foods treated with ionizing radiation. FDA is publishing this advance notice of proposed rulemaking (ANPRM) in response to the direction given in the Joint Explanatory Statement of the Committee of Conference that accompanied the Food and Drug Administration Modernization Act of 1997 (FDAMA). The FDAMA Joint Statement directed FDA to publish for public comment proposed changes to current regulations relating to the labeling of foods treated with ionizing radiation. As a first step, the agency is making available to the public, through this document, various documents including the relevant text from the FDAMA Joint Statement; prior FDA rulings regarding food irradiation; recent submissions to FDA regarding the labeling of irradiated foods, including a citizen petition; a report of a meeting attended by FDA representatives at which labeling of irradiated foods was discussed; and other relevant materials. The agency encourages interested persons to submit comments, including pertinent data and information, to aid FDA's consideration of revisions to the labeling requirements for irradiated foods.

DATES: Written comments must be submitted by May 18, 1999.

ADDRESSES: Submit written comments and supporting material to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Patricia A. Hansen, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3093.

SUPPLEMENTARY INFORMATION:

I. Introduction

Through a series of proceedings under section 409 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348), FDA has approved the use of ionizing radiation on various foods under specific conditions. These approvals are codified in FDA's regulations at § 179.26 (21 CFR 179.26).[1] The agency's regulations require that the label and labeling of retail packages or displays of foods treated with ionizing radiation include both the radura logo (the international symbol that indicates radiation treatment) and a disclosure statement (either ''Treated with radiation'' or ''Treated by irradiation'') in addition to information required by other regulations (§ 179.26(c)(1) and (c)(2)). The regulations require that the logo be placed prominently and conspicuously in conjunction with the required statement.

On November 21, 1997, President Clinton signed FDAMA into law (Pub. L. 105–115). Section 306 of FDAMA amended the act by adding section 403C (21 U.S.C. 342–3). Section 403C of the act addresses the disclosure of irradiation on the labeling of food as follows:

(a) No provision of section 201(n), 403(a), or 409 shall be construed to require on the label or labeling of a food a separate radiation disclosure statement that is more prominent than the declaration of ingredients required by section 403(i)(2).

(b) In this section, the term 'radiation disclosure statement' means a written statement that discloses that a food has been intentionally subject to irradiation.

Although FDA's regulations did not specify how prominent a radiation disclosure must be, the agency concluded there was merit to having the regulation in § 179.26 include the prominence specification of the new statutory provision. Accordingly, in the **Federal Register** of August 17, 1998 (63 FR 43875), FDA amended its labeling requirement for irradiated foods to state that a radiation disclosure statement is

[1] Two of FDA's most recent approvals authorized the use of irradiation to reduce microbial pathogens on meat and poultry. Recently, the use of irradiation has received increased attention as an important potential tool for reducing foodborne illness.

not required to be any more prominent than the declaration of ingredients required under section 403(i)(2) of the act.

Although section 403C of the act addressed only the prominence of the radiation disclosure statements, the language in the FDAMA Joint Statement (H. Rept. 105–399, 105th Cong., 1st sess., at 98–99) directed FDA to publish for public comment proposed changes to current regulations relating to labeling of foods treated with ionizing radiation. Specifically, the Joint Statement directed that, ''The public comment process should be utilized by the Secretary to provide an opportunity to comment on whether the regulations should be amended to revise the prescribed nomenclature for the labeling of irradiated foods and on whether such labeling requirements should expire at a specified date in the future.'' The FDAMA Joint Statement also indicated that, ''The conferees intend for any required irradiation disclosure to be of a type and character such that it would not be perceived to be a warning or give rise to inappropriate consumer anxiety.'' (Ref. 1.)

FDA notes that the law requires that irradiation labeling statements, like other labeling statements, be truthful and not misleading (403(a)(1) of the act). The agency also notes that over the years, it has received letters expressing a variety of views regarding the labeling of irradiated foods. However, at this time, FDA is not aware of a consensus regarding specific changes in the labeling of irradiated food that would best accomplish the intent of the conferees and also satisfy the requirements of the act and other agency regulations regarding the labeling of food in general. Therefore, the agency is publishing this ANPRM to request public comment on whether revisions to the current labeling requirements for irradiated foods are needed to accomplish these objectives and, if so, what form such revisions might take.

II. Background on FDA's Labeling Requirements for Irradiated Foods

As noted, over the years, FDA has issued several rules that address the labeling of irradiated foods. In the **Federal Register** of February 14, 1984 (49 FR 5714), FDA published a proposal to approve the use of ionizing radiation on several foods; that proposal did not include a requirement for labeling disclosing the use of ionizing radiation (Ref. 2). The agency received over 5,000 comments on this proposal, among them, numerous comments on the issue of labeling irradiated foods. Based on the comments and information received in response to the 1984 proposal and on further analysis, FDA published a final rule in the **Federal Register** of April 18, 1986 (51 FR 13376) (the 1986 rule), requiring that the labeling of retail packages and displays of irradiated food bear both the radura logo and a radiation disclosure statement (Ref. 3). The agency had concluded that labeling indicating treatment of food with radiation was necessary to prevent misbranding of irradiated foods. In response to the 1986 rule, FDA received various submissions commenting on, and objecting to, different aspects of that rule, including the labeling requirements. In the **Federal Register** of December 30, 1988 (53 FR 53176) (the 1988 response to objections), FDA discussed several comments and objections to the labeling requirements of the 1986 rule and concluded that the information submitted in the comments and objections provided no basis to change those requirements. Thus, the agency reaffirmed its earlier decision (Ref. 4).[2]

In the preamble to the 1986 rule, FDA emphasized that the required label statement (''Treated with radiation'' or ''Treated by irradiation'') could be augmented by optional statements that describe the type of radiation used or explain the reason for irradiation, provided such statements were truthful and not misleading. That is, manufacturers could include in product labeling statements such as ''treated with X-radiation'' or ''treated with electron beam radiation,'' provided that the more specific description was applicable. Similarly, manufacturers could include statements such as ''treated with radiation to extend shelf-life'' or ''treated by irradiation to control pathogens,'' provided the more specific statement truthfully described the primary purpose of the treatment (Ref. 3).

FDA further concluded that the best way to convey to consumers the factual information that a food had been irradiated was to require labeling with the radura logo, which would indicate that the food had been processed by irradiation (but which would not be interpreted as a warning or erroneously associated with the idea that radioactivity is in the food). However, because the radura logo was not in common use at that time and, thus would not be recognized, FDA also required a disclosure statement, linked with the radura, so that consumers would understand its meaning. At that time, the agency believed that consumer awareness of irradiated foods and the meaning of the radura logo would increase as irradiated foods entered the marketplace and that, in time, a separate disclosure statement would no longer be necessary. Thus, the requirement for a separate disclosure statement initially was to expire on April 18, 1988. However, the agency subsequently extended the requirement for a disclosure statement (Ref. 5: 53 FR 12757, April 18, 1988) and later made the requirement permanent (Ref. 6: 55 FR 14415, April 18, 1990), having determined, at that time, that the public was not sufficiently familiar with the meaning of the radura logo for it to be used without a statement.

III. Other Views on Labeling Requirements for Irradiated Foods

FDA has recently received several submissions from individuals and various organizations concerning the labeling of irradiated foods. The following list summarizes these submissions.

1. ''Identifying, Addressing and Overcoming Consumer Concerns.'' A Roundtable on Food Irradiation, convened by Public Voice for Food Health Policy, the National Food Processors Association, and the International Food Information Council, February 18 and 19, 1998 (Ref. 7). This report summarizes the discussion by invited participants regarding consumer concerns about food irradiation. According to the report:

Roundtable participants generally agreed that irradiated foods should continue to be labeled, subject to existing exceptions. However, participants were open to variations on existing label language—such as cold pasteurization (irradiation)—that would provide an informative, truthful and

[2] As discussed in both the 1986 final rule and the 1988 response to objections, FDA concluded that labeling of irradiated foods was necessary because such processing is a material fact that must be disclosed to the consumer to prevent deception. The agency determined that irradiation is a form of processing that can produce significant changes in certain characteristics of a food, such as the organoleptic (e.g., taste, smell, texture) or holding properties, in a manner that is not obvious to the consumer in the absence of labeling. That is, in the absence of labeling indicating that the food has been irradiated, the implied representation to consumers is that the food has not been processed.

On the other hand, FDA recognized that irradiation of an ingredient in a multiple ingredient food represented a different situation because such a food has obviously been processed, and concluded that consumers would not need special labeling to recognize that fact. Therefore, the agency did not require special labeling of a food that contained an irradiated ingredient but that had not itself been irradiated. FDA also concluded that the labeling requirements for irradiated ingredients in a multiple ingredient food should be the same as for any other processed ingredients, namely, that they be declared by their common or usual name without any requirement for stating whether they were processed (see 51 FR 13376 at 13389 and 53 FR 53176 at 53205).

non-threatening way to notify consumers that a particular product has been irradiated.

2. A letter from Senator Tom Harkin, dated January 21, 1998 (Ref. 8), and FDA's March 27, 1998, response to Senator Harkin (Ref. 9). Senator Harkin expresses concern that the current labeling requirements ''foster baseless fears,'' and requests that FDA proceed quickly to ''finalize a new rule providing for more appropriate labeling of foods processed with ionizing irradiation.'' Senator Harkin also suggests the use of alternative terms as ''cold pasteurization'' or ''electronic pasteurization'' in any irradiation disclosure statement.

3. An excerpt from ''Food Labeling for the 21st Century: A Global Agenda for Action,'' A Report by the Center for Science in the Public Interest (CSPI), May 1998 (Ref. 10). This report includes a discussion of the labeling of irradiated foods and food ingredients. As part of the report's recommendations, CSPI states that,

> Any foods, or any foods containing ingredients, that have been treated by irradiation should be labeled with a written statement on the principal display panel indicating such treatment. The statement should be easy to read and placed in close proximity to the name of the food and accompanied by the international symbol. If the food is unpackaged, this information should be clearly displayed on a poster in plain view and adjacent to where the product is displayed for sale.

4. A citizen petition from the National Food Processors Association, dated May 21, 1998 (Ref. 11). This petition requests that FDA remove the labeling requirements for irradiated foods, stating, among other things, that ''the required radiation statement causes consumer concern about a non-existent hazard, at the expense of discouraging a process that can mitigate very real safety hazards.''

5. A letter from Burrell J. Smittle, Florida Linear Accelerator, dated September 3, 1998 (Ref. 12), expressing the opinion that no radiation disclosure statement should be required.

6. A letter from Consumer Alert, dated September 15, 1998 (Ref. 13), stating support for the position that the radiation disclosure statement should not be more prominent than the declaration of ingredients.

7. A letter from the National Consumers League, dated September 16, 1998 (Ref. 14), expressing the opinion that the radiation disclosure statement should be more prominent than the declaration of ingredients.

8. A section of the ''Codex General Standard for Labelling of Prepackaged Foods,'' Codex Alimentarius Commission,[3] 1995 (Ref. 15) and a summary list of the labeling requirements for irradiated foods in various countries (Ref. 16). Under the provisions of the Codex standard, a written radiation disclosure statement is to be used on the label of irradiated foods; the use of the radura symbol, however, is optional. Of the countries included in the summary list, all require a label statement, and none rely on the radura logo alone. In addition, most of these countries require that the label statement use wording similar to that required by FDA's regulations (i.e., the use of a word comparable to ''irradiation'' or ''radiation'').

IV. Request for Comments

As previously discussed, FDA is publishing this ANPRM to request public comment on whether revisions of the current labeling requirements for irradiated foods are needed to accomplish the objectives outlined in the FDAMA Joint Statement and the labeling requirements of the act, and, if so, what form such revisions might take. In keeping with the FDAMA Joint Statement, FDA is soliciting comments on two issues: (1) Whether the wording of the current radiation disclosure statement should be revised, and (2) whether such labeling requirements should expire at a specified date in the future. To better assist FDA in formulating specific revisions that would accomplish the objectives outlined in the FDAMA Joint Statement and also satisfy the requirements of the act and the agency's other regulations regarding the labeling of food in general, the agency encourages interested persons to address the following questions in their comments:

(1) Does the current radiation disclosure statement convey meaningful information to consumers in a truthful and nonmisleading manner?

(2) How do consumers perceive the current radiation disclosure statement—as informational, as a warning, or as something else?

(3) Does the wording of the current radiation disclosure statement cause ''inappropriate anxiety'' among consumers? What are examples of ''inappropriate anxiety''?

(4) What specific alternate wording for a radiation disclosure statement would convey meaningful information to consumers, in a truthful and nonmisleading manner, and in a more accurate or less threatening way than the current wording?

(5) Would consumers be misled by the absence of a radiation disclosure statement in the labeling of irradiated foods? Are consumers misled by the presence of such a statement?

(6) With respect to foods containing irradiated ingredients, are consumers misled by the absence of a radiation disclosure statement? Would consumers be misled by the presence of such a statement?

(7) What is the level of direct consumer experience with irradiated foods that are labeled as such?

(8) What is the effect of the current required labeling on the use of irradiation? Does the current required labeling discourage the use of irradiation?

(9) What do consumers understand to be the effect of irradiation on food? For example, what do consumers understand about the effect of irradiation on the numbers of harmful microorganisms in or on food?

(10) Do consumers readily recognize the radura logo?

(11) Do consumers understand the logo to mean that a food has been irradiated?

(12) Do consumers perceive the radura logo as informational, as a warning, or as something else?

(13) Should any requirement for a radiation disclosure statement expire at a specified date in the future?

(14) If so, on what criteria should the expiration be based?

(15) If the expiration of labeling requirements for irradiated foods is to be based on consumer familiarity with the radura logo and understanding of its meaning, what evidence of familiarity and understanding would be sufficient to allow these requirements to expire?

FDA strongly encourages the submission of the results of any focus group or other consumer perception studies regarding irradiated foods and the labeling of such foods. In addition, FDA encourages those persons who suggest a revision of the radiation disclosure statement also to submit a brief discussion of the advantages of their suggestion over the current statement. Finally, FDA encourages interested persons to submit information regarding the prevalence of irradiated foods in the marketplace and information regarding the level of consumer experience and awareness of irradiated foods and irradiation processing.

V. Comments

Interested persons may, on or before May 18, 1999, submit to the Dockets

[3] The Codex Alimentarius Commission is an international consensus standards body organized under the auspices of the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO).

Management Branch, written comments on this ANPRM and supporting material. Two copies of any comment are to be submitted except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Conference Report on S. 830, Food and Drug Administration Modernization Act of 1997, 143 Cong. Rec. H10452, 10477 (November 9, 1997).

2. ''Irradiation in the Production, Processing, and Handling of Food; Proposed Rule,'' FDA, **Federal Register**, February 14, 1984 (49 FR 5714).

3. ''Irradiation in the Production, Processing, and Handling of Food; Final Rule,'' FDA, **Federal Register**, April 18, 1986 (51 FR 13376).

4. ''Irradiation in the Production, Processing, and Handling of Food; Final Rule; Denial of Request for Hearing and Response to Objection,'' FDA, **Federal Register**, December 30, 1988 (53 FR 53176).

5. ''Irradiation in the Production, Processing, and Handling of Food; Final Rule,'' FDA, **Federal Register**, April 18, 1988 (53 FR 12757).

6. ''Irradiation in the Production, Processing, and Handling of Food; Final Rule,'' FDA, **Federal Register**, April 18, 1990 (55 FR 14415).

7. ''Identifying, Addressing and Overcoming Consumer Concerns.'' A Roundtable on Food Irradiation, convened by Public Voice for Food Health Policy, the National Food Processors Association, and the International Food Information Council, February 18 and 19, 1998.

8. Letter from Senator Tom Harkin to Michael Friedman, FDA, January 21, 1998.

9. Letter from Diane E. Thompson, FDA, to Senator Tom Harkin, March 27, 1998.

10. ''Food Labeling for the 21st Century: A Global Agenda for Action,'' by the Center for Science in the Public Interest, May 1998.

11. Citizen Petition from John R. Cady, National Food Processors Association to FDA, May 21, 1998.

12. Letter from Burrell J. Smittle, Florida Linear Accelerator to Dockets Management Branch, FDA, September 3, 1998.

13. Letter from Barbara Rippel, Consumer Alert to Dockets Management Branch, FDA, September 15, 1998.

14. Letter from Linda F. Golodner, National Consumers League to Dockets Management Branch, FDA, September 16, 1998.

15. Codex General Standard for Labelling of Prepackaged Foods, Joint FAO/WHO Food Standards Programme, Codex Alimentarius Commission, Rome, 1995.

16. ''Present Status of Labelling Requirements in Various Countries,'' October 16, 1998.

Dated: February 8, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–3714 Filed 2–16–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC42

Coastal Zone Consistency Review of Exploration Plans and Development and Production Plans

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to amend regulations that specify how States will review Exploration Plans (EP) and Development and Production Plans (DPP) for coastal zone consistency. The amended regulation would clarify that State coastal zone consistency review is accomplished under the authority of the National Oceanic and Atmospheric Administration (NOAA) regulations. In addition when MMS prepares a DPP environmental impact statement (EIS), we propose to give the draft EIS to those States requiring the draft EIS as necessary information to conduct the DPP consistency review.

DATES: We will consider all comments received by April 19, 1999. We will begin reviewing comments then and may not fully consider comments we receive after April 19, 1999.

ADDRESSES: If you wish to comment, you may mail or hand-carry written comments (three copies) to the Department of the Interior; Minerals Management Service; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817; Attention: Rules Processing Team. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Maureen Bornholdt, Environmental Assessment Branch, (703) 787–1600.

SUPPLEMENTARY INFORMATION: One main objective of this rulemaking is to correct discrepancies between MMS and NOAA regulations. Our current rules regarding Outer Continental Shelf (OCS) plan submission and approval were last revised in 1988. At that time, several statements concerning State coastal zone consistency reviews were placed in our regulations to alert lessees to the requirements that had to be met before activities associated with an EP or a DPP could be approved. Since 1988, it has become clear that some of these provisions conflicted with the NOAA rules governing State coastal zone consistency review of OCS plans. Thus, our regulations are being revised to comply with the NOAA requirements.

Additionally, we believe it is in the interest of all parties for States to have the maximum amount of available information in evaluating the consistency certification by applicants for a DPP under the State's coastal management program and in making important CZM decisions. Accordingly when we prepare a DPP EIS, we propose to give the draft EIS to those States requiring the DPP EIS as necessary information that must be received before consistency review can begin.

Background

Section 307(c)(3)(B) of the Coastal Zone Management Act (CZMA) requires that activities described in OCS plans be conducted in a manner consistent with enforceable policies of federally approved State Coastal Management Programs (CMP). Consequently, any person submitting an OCS plan to us must attach certificates of coastal zone consistency to the plan. Under section 307(c)(3)(B), Federal Agencies cannot grant any Federal licenses or permits for any activity in the OCS plan until:

(1) The State receives a copy of the OCS plan, the consistency certification, and any other necessary data and information; and

(2) The State concurs with, or is conclusively presumed to concur with, the consistency certification, or the Secretary of Commerce overrides the State's consistency objection.

As documented in the CZMA, three items are required for State consistency review: the OCS plan, the consistency certification, and any necessary data and information. Because many State CMP's describe information requirements for assessing consistency, States are required to make copies of its CMP available to help applicants identify necessary data and information. Applicants are also encouraged to discuss consistency information needs with the State. In addition to using CMP information requirements for OCS plan review, NOAA has instructed States to use ''information received pursuant to the Department of the Interior's operating regulations governing (OCS) exploration, development and production'' to determine consistency (15 CFR 930.77(a)). The State may ask for information in addition to that required by § 930.77, but such requests do not extend the start of its consistency review (15 CFR 930.78). Consistency review begins when the State receives a copy of the OCS plan, consistency certification, and required necessary data and information (15 CFR 930.78).

Proposed Changes to Our Regulations

One main objective in revising our regulations is to correct discrepancies between MMS and NOAA regulations. Specifically, the proposed revision at 30 CFR 250.203(f) replaces our directive to start consistency review upon receipt of the EP with the NOAA requirement to begin consistency review when the State receives the OCS plan, the lessee's consistency certification, and required necessary data and information (15 CFR 930.77). Also, we propose to add this NOAA reference on starting consistency review to the DPP regulations found at 30 CFR 250.204(i).

Additionally, we are replacing the statement about the relationship between NEPA proceedings and State consistency review with one describing when we will forward a draft EIS to the State coastal zone management agency.

In 1979, the Department of the Interior (DOI) expressed the view that delaying the CZMA consistency process until after a NEPA compliance document had been prepared would not be consistent with congressional intent. Specifically, in response to a comment suggesting a delay in the CZMA process when an EIS is needed for a DPP, the 1979 preamble to the current rule stated:

> It is clear from the provisions of Section 25 of the Act that a State's coastal zone consistency review is independent of the National Environmental Policy Act review procedures, and the coastal zone consistency review should be completed within the timeframe specified in the Act and the implementing regulations. The Environmental Report is designed to provide all the information needed for the consistency review. To adopt the suggested procedure would result in a delay that is contrary to the intent of Congress.

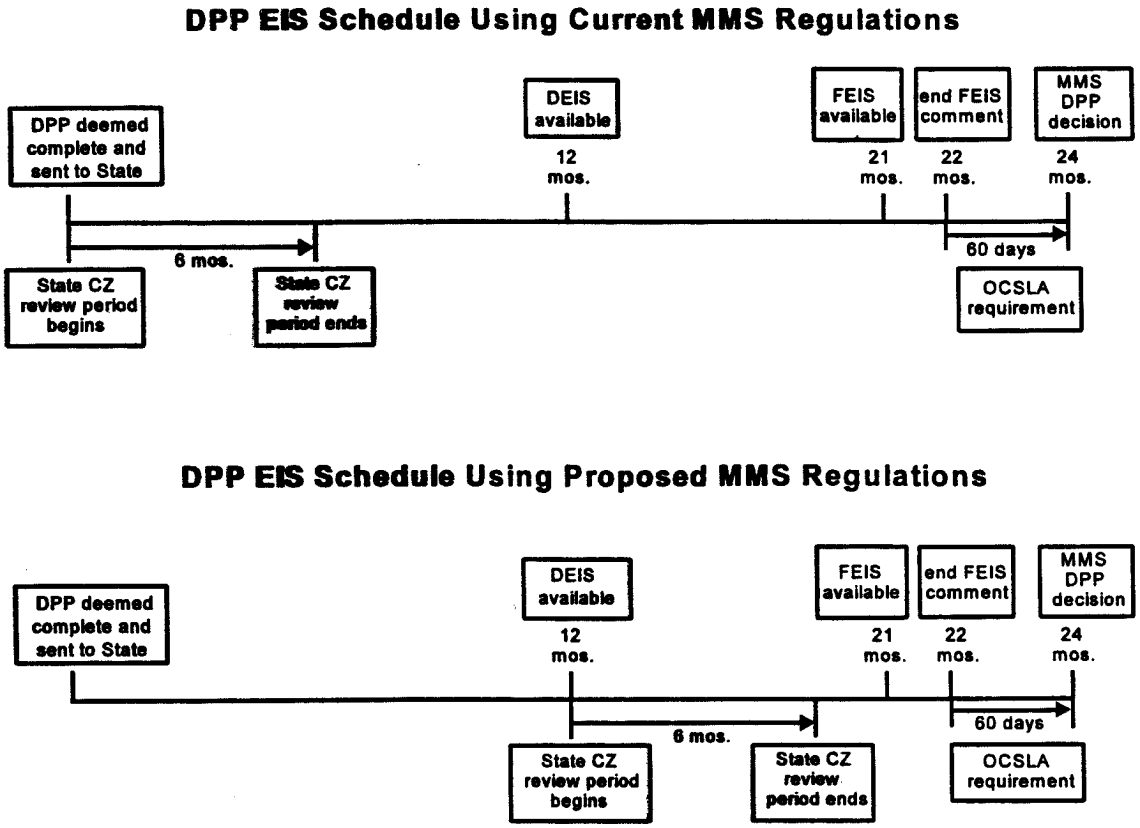
44 Fed. Reg. 53686 (Sept. 14, 1979).

DOI has reconsidered this position. First, as a matter of policy, 19 years of OCS program experience under the old rule has led us to the judgment that the lack of an EIS in a State's review of a CZMA consistency certification has contributed to many State objections and a more contentious process than necessary in developing our nation's offshore natural gas and oil. Accordingly, we have determined to support, to the extent permitted by law, the States' efforts to obtain as much environmental information as is reasonably obtainable prior to making consistency decisions under the CZMA.

Second, as a matter of law, NEPA, CZMA, and OCS Lands Act (OCSLA) do not expressly state their relationship to each other, and the relationship (or lack of relationship) among these statutes is not as clear as the preamble to the 1979 rulemaking asserts. The 1979 preamble statement relied upon certain statements in the legislative history, not the statutory text. See, e.g., H.R. REP. No. 590, 95th Cong., 2d Sess. 167, reprinted in 1978 U.S. CODE CONG. & ADMIN. NEWS 1572, 1573. While the CZMA, OCSLA, and NEPA processes have somewhat different time frames, we do not find in them any requirement to achieve compliance with the separate mandates of those statutes in any rigid order. The Secretary's general rulemaking authority in Section 5 of the OCSLA, 43 U.S.C. 1334, provides him with considerable discretion to administer the OCS program. The Solicitor's Office advises that this authority gives the Secretary discretion to provide a more flexible approach to achieving that compliance. Thus, the Secretary may allow MMS to give a draft EIS to those States that require a draft EIS before starting DPP consistency review.

Therefore, we propose to give the draft EIS to those States that require the DPP EIS as necessary information that must be received before consistency review can begin. Any delay in beginning the DPP consistency review until the draft EIS is available will not affect the mandated 60-day timeframe for our decision on the DPP. When a DPP EIS is prepared, the OCSLA requires that we approve, disapprove or require modification of the DPP 60 days after the release of the final EIS. Typically, there are about 8 to 9 months between the availability of the draft and final EIS's. We use this time period to solicit public comment (written and oral) on the draft EIS, respond to comments/make changes, and conduct internal reviews and other administrative matters associated with the EIS production. This time interval would allow the State sufficient time to complete its DPP consistency review (see chart below). Providing the State with the maximum available amount of information for the State to concur in the consistency certification by an applicant for a DPP, furthers DOI's efforts to maximize the amount of good science and analysis available to the States in making their important CZMA decisions, to design an OCS program based on consensus, not conflict, and to be good neighbors to the coastal States.

We seek comments on this change of position and its potential impact on the OCSLA approval process and DPP applicants. We also seek comment on how this rule, once effective, should apply to pending DPP applications.



BILLING CODE 4310–MR–C

Procedural Matters

Federalism (Executive Order (E.O.) 12612

In accordance with E.O. 12612, the rule does not have significant Federalism implications. A Federalism assessment is not required.

Takings Implications Assessment (E.O. 12630)

In accordance with E.O. 12630, the rule does not have significant Takings Implications. A Takings Implication Assessment is not required.

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under E.O. 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

Clarity of This Regulation

E.O. 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections?

(5) Is the description of the rule in the ''Supplementary Information'' section of this preamble helpful in understanding the rule? What else can we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, N.W., Washington, D.C. 20240. You may also e-mail the comments to this address:

Exsec@ios.doi.gov

Civil Justice Reform (E.O. 12988).

In accordance with E.O. 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA of 1969 is not required.

Paperwork Reduction Act (PRA) of 1995

The information collection requirements in the proposed amendment to the rule remain unchanged. The current information collection requirements of Subpart B, Exploration and Development and Production Plans, have been approved by OMB under 44 U.S.C. 3507 and assigned OMB control number 1010–0049.

Regulatory Flexibility Act

The Department certifies that this document will not have a significant economic effect on a substantial number

of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The proposed revision to the rule will clarify, but not change, the requirements currently in place for OCS plan review and approval. The changes should make clear that NOAA regulations govern State coastal zone consistency review of OCS plans submitted to us. There will be no change to current procedures resulting from the proposed amendment to the rule. The Department has determined that these proposed changes to the rule will not have a significant effect on a substantial number of small entities. In general, most entities that engage in offshore activities are not considered small due to the technical and financial resources and experience necessary to safely conduct such activities. However, those lessees that are classified as small businesses will not be affected. The Department also determined that there are no indirect effects of this rulemaking on small entities that provide support for offshore activities. Small government entities, such as small local governments in an affected State's coastal zone, can participate in State coastal zone review and can request that the Regional Supervisor provide copies of plans. None of the proposed changes will affect this process.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734–3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under (5 U.S. C. 804(2)), SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandate Reform Act of 1995

This rule does not impose a unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated. February 9, 1999.

Sylvia V. Baca,

Acting Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, Minerals Management Service (MMS) proposes to amend 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1334.

2. In § 250.203, paragraph (f) is revised to read as follows:

§ 250.203 Exploration Plan.

* * * * *

(f) Within two working days after we deem the Exploration Plan submitted, the Regional Supervisor will send by receipted mail a copy of the plan (except those portions exempt from disclosure under the Freedom of Information Act and 43 CFR part 2) to the Governor or the Governor's designated representative and the CZM agency of each affected State. Consistency review begins when the State's CZM agency receives a copy of the plan, consistency certification, and required necessary data and information as directed by 15 CFR 930.78.

* * * * *

3. In § 250.204, paragraphs (i) and (j) are revised to read as follows:

§ 250.204 Development and Production Plan.

* * * * *

(i) We will process the plan in accordance with this section and 15 CFR part 930. Accordingly, consistency review begins when the State's CZM agency receives a copy of the plan, consistency certification, and required necessary data and information as directed by 15 CFR 930.78.

(j) The Regional Supervisor will evaluate the environmental impact of the activities described in the Development and Production Plan (DPP) and prepare the appropriate environmental documentation required by the National Environmental Policy Act of 1969. At least once in each planning area (other than the western and central Gulf of Mexico planning areas), we will prepare an environmental impact statement (EIS) and send copies of the draft EIS to the Governor of each affected State and the executive of each affected local government that requests a copy. Additionally, when we prepare a DPP EIS and when the State's federally approved coastal management program requires a DPP EIS for use in determining consistency, we will forward a copy of the draft EIS to the State's CZM Agency. We will also make copies of the draft EIS available to any appropriate Federal Agency, interstate entity, and the public.

* * * * *

[FR Doc. 99–3864 Filed 2–16–99; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL168–1b; FRL–6232–9]

Approval and Promulgation of Air Quality Implementation Plans; Illinois: Clean Fuel Fleet Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Illinois State Implementation Plan (SIP) amending the Illinois Clean Fuel Fleet program (CFFP) established for the Chicago ozone nonattainment area. Illinois submitted the SIP revision request on February 13, 1998, which delays the implementation of the Illinois CFFP purchase requirement from model year 1998 to model year 1999, based on EPA's decision to allow States to implement such delays. In addition, the Illinois SIP revision includes two minor corrections to the CFFP rules federally approved on March 19, 1996. In the final rules section of this **Federal**

Register, EPA is approving this SIP revision as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the SIP revision is set forth in the direct final rule. The direct final rule will become effective without further notice unless the EPA receives relevant adverse written comment. Should the EPA receive such comment, it will publish a timely withdrawal informing the public that this direct final rule will not take effect and such public comment received will be addressed in a subsequent final rule based on the proposed rule. If no adverse written comments are received, the direct final rule will take effect on the date stated in that document, and no further action will be taken on this proposed rule. The EPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before March 19, 1999.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and EPA's analysis of it are available for inspection at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Francisco Acevedo, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6061.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: February 2, 1999.

David A. Ullrich,

Acting Regional Administrator, Region V.

[FR Doc. 99–3523 Filed 2–16–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–42, RM–9467]

Radio Broadcasting Services; Whitefield, NH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Dana Puopolo to allot Channel 256A to Whitefield, NH, as the community's first local aural service. Channel 256A can be allotted to Whitefield in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.9 kilometers (6.8 miles) northeast, at coordinates 44–27–17 NL; 71–31–36 WL, to avoid a short-spacing to Station WOKO, Chanel 255C1, Burlington, VT. Canadian concurrence is required since Whitefield is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dana Puopolo, 37 Martin Street, Rehoboth, MA 02769–2103 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–42, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3778 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–43, RM–9468]

Radio Broadcasting Services; Narrowsburg, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Karen L. Johnson to allot Channel 275A to Narrowsburg, NY, as the community's first local aural service. Channel 275A can be allotted to Narrowsburg in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.9 kilometers (3.7 miles) northeast, at coordinates 41–38–00 NL; 74–59–46 WL, to avoid a short-spacing to Station WMGK, Channel 275B, Philadelphia, PA. Canadian concurrence in the allotment is required because Narrowsburg is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John F. Garziglia, Patricia M. Chuh, Pepper & Corazzini L.L.P, 1776 K Street, N.W., Suite 200, Washington, D.C. 20006 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–43, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3779 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–44, RM–9469]

Radio Broadcasting Services; Stanfield, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Luella Hoskins to allot Channel 241C3 to Stanfield, OR, as the community's first local aural service. Channel 241C3 can be allotted to Stanfield in compliance with the Commission's minimum distance separation requirements with a site restriction of 17.3 kilometers (10.7 miles) southwest, at coordinates 45–40–40 NL; 119–23–01 WL, to avoid a short-spacing to Stations KNLT, Channel 239C, Walla Walla, WA, and KRCW, Channel 242C2, Royal City, WA.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Luella Hoskins, 84889 March Road, Milton-Freewater, OR 97862 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–44, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3780 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–27; RM–9437]

Radio Broadcasting Services; New Castle, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mountain West Broadcasting requesting the allotment of Channel 233A to New Castle, Colorado, as that community's first local commercial FM transmission service. Coordinates used for this proposal are 39–34–12 NL and 107–31–54 WL.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mountain West Broadcasting, c/o Victor A. Michael, Jr., 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–27, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3781 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–26; RM–9436]

Radio Broadcasting Services; Pitkin, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Panther Broadcasting of Louisiana requesting the allotment of Channel 285A to Pitkin, Louisiana, as that community's first local aural transmission service. Information is requested regarding the attributes of Pitkin, Louisiana, to determine whether it is a *bona fide* community for allotment purposes. Coordinates used for this proposal are 30–56–06 NL and 92–56–12 WL.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Henry E. Crawford, Esq., Law Offices of Henry E. Crawford, 1150 Connecticut Avenue, NW., Suite 900, Washington, DC 20036–4192.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–26, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3782 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–203, RM–8871]

Radio Broadcasting Services; Augusta, Gibson, and Thomson, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

SUMMARY: The Commission dismisses the request of Wilks Broadcast Acquisitions, Inc. to substitute Channel 269C3 for Chanel 272A at Augusta, GA, modify the license of Station WEKL to specify the higher powered channel, substitute Channel 232A for Channel 269A at Thomson, GA, and modify the license of Station WTHO to specify operation on the alternate Class A channel, and delete the unoccupied and then-unapplied for Channel 232A at Gibson, GA, because an application for use of the Gibson channel has been filed. *See* 61 FR 54404, October 18, 1996. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96–203, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3784 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–36, RM–9372]

Radio Broadcasting Services; Denmark and Kaukauna, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Midwest Dimensions, Inc., proposing the substitution of Channel 285C3 for Channel 285A at Kaukauna, Wisconsin, reallotment of Channel 285C3 from Kaukauna to Denmark, Wisconsin, and modification of the license for Station WPCK to specify operation on Channel 285C3 at Denmark. The coordinates for Channel 285C3 at Denmark are 44–24–38 and 87–34–20. In accordance with Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 285C3 at Denmark, Wisconsin, or require Midwest Dimensions, Inc. to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Eugene T. Smith, 715 G Street, S.E., Washington, DC. 20003

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–36, adopted January 27, 1999, and

released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3785 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–33; RM–9453]

Radio Broadcasting Services; Burdett, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Dana Puopolo, requesting the allotment of Channel 228A to Burdett, Kansas, as that community's first local aural transmission service. Coordinates used for this proposal are 38–11–30 NL and 99–31–30 WL.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Dana J. Puopolo, 37 Martin Street, Rehoboth, MA 02769–2103.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–33, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3786 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–32; RM–9445]

Radio Broadcasting Services; Rye, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mountain West Broadcasting requesting the allotment of Channel 285A to Rye, Colorado, as that community's first local commercial FM transmission service. Coordinates used for this proposal are 37–55–18 NL and 104–55–48 WL.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mountain West Broadcasting, c/o Victor A. Michael, Jr., 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–32, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3787 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–31; RM–9444]

Radio Broadcasting Services; Palisade, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mountain West Broadcasting requesting the allotment of Channel 295C3 to Palisade, Colorado, as that community's first local aural transmission service. Coordinates used for this proposal are 39–07–54 NL and 108–22–37 WL.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mountain West Broadcasting, c/o Victor A. Michael, Jr., 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–31, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3788 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–30; RM–9443]

Radio Broadcasting Services; Aberdeen, ID

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mountain West Broadcasting requesting the allotment of Channel 258C2 to Aberdeen, Idaho, as that community's first local aural transmission service. Coordinates used for this proposal are 43–00–27 NL and 112–41–54 WL.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mountain West Broadcasting, c/o Victor A. Michael, Jr., 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–30, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3789 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–29; RM–9439]

Radio Broadcasting Services; Walden, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mountain West Broadcasting requesting the allotment of Channel 231C2 to Walden, Colorado, as that community's first local aural transmission service. Coordinates used for this proposal are 40–41–54 NL and 106–29–48 WL.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mountain West Broadcasting, c/o Victor A. Michael, Jr., 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–29, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M

Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3790 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–28; RM–9438]

Radio Broadcasting Services; Olathe, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mountain West Broadcasting requesting the allotment of Channel 270C2 to Olathe, Colorado, as that community's first local aural transmission service. Coordinates used for this proposal are 38–36–18 NL and 107–58–54 WL.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mountain West Broadcasting, c/o Victor A. Michael, Jr., 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–28, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3791 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–41, RM–9466]

Radio Broadcasting Services; Wimbledon, ND

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by High Plains Broadcasting, Inc. seeking the allotment of Channel 276C1 to Wimbledon, ND, as the community's first local aural service. Channel 276C1 can be allotted to Wimbledon in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 47–10–18 NL; 98–27–30 WL. Canadian concurrence is required since Wimbledon is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: F. William LeBeau, Hogan & Hartson, L.L.P., 555 Thirteenth Street, NW, Washington, DC 20004–1109 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–41, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3793 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–40, RM–9465]

Radio Broadcasting Services; Richardton, ND

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by High Plains Broadcasting, Inc., seeking the allotment of Channel 270C to Richardton, ND, as the community's first local aural service. Channel 270C can be allotted to Richardton with a site restriction of 6.2 kilometers (3.8 miles) southwest, at coordinates 46–50–25 NL; 102–21–35 WL, to avoid a short-spacing to Station KBTO, Channel 270C1, Bottineau, ND. Canadian concurrence in the allotment is required since Richardton is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: F. William LeBeau, Hogan & Hartson, L.L.P., 555 Thirteenth Street, N.W., Washington, D.C. 20004–1109 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–40, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3794 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–39, RM–9464]

Radio Broadcasting Services; Ranier, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Washington Interstate Broadcasting Company, Inc., seeking the allotment of Channel 252A to Ranier, OR, as the community's first local aural service. Channel 252A can be allotted to Ranier in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.4 kilometers (5.8 miles) north, at coordinates 46–10–18 NL; 122–57–42 WL, to avoid a short-spacing to vacant and unapplied-for Channel 252C3 at Dallas, OR. Canadian concurrence in the allotment is required since Ranier is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard J. Hayes, Jr., 8404 Lee's Ridge Road, Warrenton, VA 20186 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–39, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3795 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–38, RM–9451]

Radio Broadcasting Services; Berthold, ND

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by High Plains Broadcasting, Inc., to allot Channel 264C to Berthold, ND, as the community's first local aural service. Channel 264C can be allotted to Berthold in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 48–18–54 NL; 101–44–12. Canadian concurrence in the allotment is required since Berthold is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: F. William LeBeau, Hogan & Hartson L.L.P., 555 Thirteenth Street, N.W., Washington, D.C. 20004–1109 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–38, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3796 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–37, RM–9450]

Radio Broadcasting Services; Flasher, ND

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by High Plains Broadcasting, Inc., to allot Channel 290C to Flasher, ND, as the community's first local aural service. Channel 290C can be allotted to Flasher in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 46–27–12 NL; 101–14–06. Canadian concurrence in the allotment is required since Flasher is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: F. William LeBeau, Hogan & Hartson L.L.P., 555 Thirteenth Street, N.W., Washington, D.C. 20004–1109 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–37, adopted January 27, 1999, and released February 5, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3797 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–45; RM–9401]

Television Broadcasting Services; El Dorado and Camden, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Equity Broadcasting Corporation, permittee of Station KKYK–TV, Channel 49, El Dorado, Arkansas, requesting the reallotment of Channel 49 from El Dorado to Camden, Arkansas, as that community's first local television transmission service and modification of its authorization accordingly, pursuant to the provisions of § 1.420(i) of the Commission's Rules. Coordinates used for Channel 49 at Camden are those of the petitioner's presently authorized transmitter site at coordinates 33–16–19 NL and 92–42–11 WL.

Although the Commission has imposed a freeze on the TV Table of Allotments in certian metropolitan areas, the freeze is not applicable to changes requested by existing stations. *See Advanced Television Systems and Their Impact on the Existing Television Broadcast Service, Order,* 52 FR 28,346, July 29, 1987. Moreover, the petitioner's authorization was issued after the cut-off date established in the *Sixth Report and Order on Digital Television Service,* 12 FCC Rcd 13588, 14593 (1997). Therefore, this proposal does not impact on the DTV Table of Allotments set forth in Section 73.622(b) of the Commission's Rules, nor does the instant proposal request the allotment of a paired DTV channel for Camden.

DATES: Comments must be filed on or before March 29, 1999, and reply comments on or before April 13, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Mark N. Lipp and Scott C. Cinnamon, Esqs., Shook, Hardy & Bacon, 1850 K Street, N.W., Suite 900, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–45, adopted January 27, 1999, and released February 5, 1999. The text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–3792 Filed 2–16–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 390 and 396

[FHWA Docket No. FHWA–98–3656]

RIN 2125–AE40

General Requirements Inspection, Repair, and Maintenance; Intermodal Container Chassis and Trailers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM); request for comments.

SUMMARY: In response to a petition for rulemaking filed by the American Trucking Associations, Inc. (ATA) and the ATA Intermodal Conference (the petitioners), the FHWA agreed to consider revisions to the requirements in parts 390 and 396 of the Federal Motor Carrier Safety Regulations (FMCSRs) that place upon motor carriers the responsibility for maintaining intermodal container chassis and trailers. The petitioners contend that motor carriers have no opportunity to maintain this equipment and that the parties who do have the opportunity often fail to do so. The FHWA, therefore, is seeking information on the extent of this problem and public comments on the solution proposed by petitioners, i.e., to mandate joint responsibility between the ''equipment provider'' and the motor carrier for maintaining this type of intermodal equipment.

DATES: Comments must be received on or before April 19, 1999.

ADDRESSES: Signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Singer, Office of Motor Carrier Research and Standards, HCS–10, (202) 366–4009; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC–20, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. [TDD number for the hearing impaired: 1–800–699–7828] Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Federal Register's home page at http://www.nara.gov/fedreg and the Government Printing Office's database at http://www.access.gpo.gov/nara.

Background

The American Trucking Associations, Inc. and the ATA Intermodal Conference filed a petition for rulemaking on March 17, 1997, to amend 49 CFR parts 390 and 396 of the FMCSRs.

The petitioners asked the FHWA to require parties that tender intermodal equipment to motor carriers to ensure the ''roadworthiness'' of that equipment. The petition pointed out that:

> [t]he motor carrier—or more precisely, the driver—usually does not have the ability or opportunity to do a full and adequate inspection of each piece of intermodal equipment to ensure the equipment's roadworthiness or compliance with the FMCSRs when accepting intermodal equipment at a port or railhead. The equipment is owned or leased by the railroad, steamship line or other party tendering/interchanging it to the motor carrier. If a safety defect in the equipment is not immediately obvious to the truck driver, he/she has neither the time nor facilities to conduct a more in-depth inspection. The standard interchange agreement adopted by most equipment providers, the Uniform Intermodal Interchange and Facilities Access Agreement (UIIA), specifically states that the ''(p)rovider makes no express nor implied warranty as to the fitness of the equipment.'' Further, the typical equipment provider addendum to the UIIA requires the driver to warrant that the equipment is ''roadworthy.''

The petitioners argue that poor maintenance of intermodal equipment is a serious safety problem and request the FHWA to make the owner or operator of such equipment responsible for the roadworthiness of the vehicles it tenders to motor carriers.

Motor carriers must be held responsible for the safety of their own equipment, but when they engage in

intermodal transportation this service often requires them to operate vehicles which they do not own, and rarely control, until just before the highway movement begins. It can be difficult, as the petitioners contend, for motor carriers to comply with the requirements of the FMCSRs without taking intermodal equipment out of service for inspection, which could cause significant delay and disruption in the movement of containers or trailers.

Present Requirement/ATA Proposed Amendments

The petitioners requested that title 49 of the Code of Federal Regulations be amended as follows. Proposed changes are *italicized:*

Section 396.1 Scope

General—Every motor carrier (*and for this part any party who is tendering or interchanging a trailer, chassis, or container to a motor carrier*), its officers, drivers, agents, representatives, and employees directly concerned with the inspection or maintenance of motor vehicles shall comply and be conversant with the rules of this part.

Section 396.7 Unsafe Operations Forbidden

(a) General—A motor vehicle shall not be operated in such a condition as to likely cause an accident or a breakdown of the vehicle.

(b) Intermodal—*No person shall tender or interchange a trailer, chassis, or container in violation of section (a) to a motor carrier.*

(c) *No motor carrier shall certify or otherwise guarantee to any person tendering or interchanging any trailer, chassis, or container to a motor carrier that such trailer, chassis, or container complies with this Part unless the person tendering or interchanging the trailer, chassis, or container has provided the motor carrier with adequate equipment, time, and facilities to make a full inspection and necessary repairs to the trailer, chassis, or container prior to the tendering or interchange of the trailer, chassis, or container.*

(d) **Exemption**—Any motor vehicle discovered to be in an unsafe condition while being operated on the highway may be continued in operation only to the nearest place where repairs can safely be effected. Such operation shall be conducted only if it is less hazardous to the public than to permit the vehicle to remain on the highway.

Section 396.9 Inspection of Motor Vehicles in Operation

(a) **Personnel authorized to perform inspections.** Every special agent of the FHWA (as defined in Appendix B to this subchapter) is authorized to enter upon and perform inspections of motor carrier's vehicles in operation *and any trailer, chassis, or container at an intermodal terminal which is intended to be tendered or interchanged to a motor carrier for use on the highways.*

Section 390.37 Violation and Penalty

Any person who violates the rules set forth in this subchapter or Part 325 of Subchapter A may be subject to civil or criminal penalties. *When a motor carrier has been tendered a trailer, chassis, or container that does not meet the standards set forth in Part 393 in violation of section 396.1 of this subchapter, the motor carrier tendered or interchanged such a vehicle shall not be liable for civil or criminal penalties under this subchapter.*

Jurisdiction

The FHWA has jurisdiction over ''commercial motor vehicles'' (CMVs), ''employees'' and ''employers,'' as defined in 49 U.S.C. 31132(1), (2) and (3), respectively. The vast majority of intermodal trailers and chassis-and-container combinations meet the definition of a CMV—a ''towed vehicle used on the highways in interstate commerce to transport * * * property (which) (A) has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds * * *'' An employer is ''a person engaged in a business affecting interstate commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate it.'' An employee is ''an operator of a commercial motor vehicle (including an independent contractor when operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who (A) directly affects commercial motor vehicle safety in the course of employment * * *''

Railroads, steamship lines, pier operators, or other parties that own or lease intermodal CMVs are thus ''employers'' subject to the jurisdiction of the FHWA. Any employee of such a business who is responsible for intermodal CMVs ''directly affects commercial motor vehicle safety'' through the inspection and maintenance program he or she manages and is thus an ''employee'' subject to the jurisdiction of the FHWA.

Request for Comments

Although FHWA believes it may be prudent to establish joint responsibility between the ''equipment provider'' and the motor carrier for the maintenance of these intermodal container chassis and trailers, the agency seeks to ensure that it has considered all the pertinent issues that could impact any potential rulemaking changes.

The FHWA specifically requests comments addressing the following questions. However, commenters are also encouraged to include discussion of any other issues they consider relevant to this rulemaking.

1. What is the out-of-service (OOS) rate for intermodal container chassis or trailers inspected at roadside? If that information is not available, what percentage of the intermodal equipment transported by individual motor carriers are placed out of service? What percentage of OOS orders involve intermodal chassis? What percentage involve intermodal trailers? What percentage of OOS orders are issued within 24 hours after the motor carrier takes possession of the intermodal equipment? Within 48 hours? Within 96 hours? State agencies are encouraged to respond to this question with information from their State inspection databases.

2. What is the violation rate (the average number of equipment-related violations of the FMCSRs found per inspection) for intermodal container chassis or trailers inspected at roadside? If that information is not available, what percentage of the intermodal equipment transported by individual motor carriers have defects or deficiencies? What percentage of inspection violations involve intermodal chassis? What percentage involve intermodal trailers? What percentage of violations are discovered within 24 hours after the motor carrier takes possession of the intermodal equipment? Within 48 hours? Within 96 hours? State agencies are encouraged to respond to this question with information from their State inspection databases.

3. Why does the Uniform Intermodal Interchange and Facilities Access Agreement disavow all responsibility for the ''fitness'' of intermodal equipment?

4. Generally, national accident databases do not provide enough detail for the FHWA to determine the percentage of commercial motor vehicle accidents that can be attributed, in whole or in part, to mechanical defects or deficiencies. If the FHWA decides to proceed with this rulemaking, it would be necessary to estimate the benefits in

terms of accidents and injuries prevented and lives saved. Are State officials and motor carriers aware of accidents attributable to mechanical defects or deficiencies on intermodal container chassis or trailers? If yes, what were the specific mechanical defects or deficiencies and how was (were) the cause(s) of the accident(s) determined? Do the States or industry sources have statistically reliable data on accidents of this type, or on defects or deficiencies that could lead to accidents? If so, please provide the information.

5. If the FHWA were to develop regulations making certain entities who offer intermodal container chassis and trailers for transportation responsible for the mechanical condition of those vehicles, one of the means of enforcement would be through roadside inspections. During a roadside inspection, defects or deficiencies could be identified, but it is uncertain whether inspectors could determine when the defect or deficiency occurred (i.e., before or after the motor carrier took possession of the container chassis or trailer). How could State officials cite the party that tendered the intermodal CMV for defects or deficiencies found at the roadside if there were no proof that the defects or deficiencies were present before the motor carrier took possession of the vehicle?

6. Should the party that tendered the intermodal CMV be held responsible for all defects or deficiencies irrespective of the length of time the motor carrier has been operating the container chassis or trailer? If not, at what point during the operation of the chassis or trailer should the responsibility for ensuring its safe operation be transferred from the entity offering the vehicle for transportation to the motor carrier?

7. The petitioners indicated that drivers usually do not have the ''ability or opportunity to do a full and adequate inspection of each piece of intermodal equipment to ensure the equipment's roadworthiness or compliance with the FMCSRs when accepting intermodal equipment at a port or railhead.'' What are the obstacles to providing drivers with the opportunity to perform a walk-around inspection of container chassis and trailers? With regard to ability, what types of training would drivers need to perform a walk-around inspection of the container chassis or trailers?

8. If the FHWA issued regulations to make the entities who offer container chassis or trailers responsible for the mechanical condition of the vehicles, these entities would need to provide maintenance facilities and personnel to systematically inspect, repair, and maintain the vehicles. How many inspection, repair, and maintenance facilities and mechanics are currently used by these parties to service container chassis and trailers used in intermodal operations? How many additional facilities and employees would be needed to ensure that every intermodal CMV complied with the FMCSRs before being turned over to a motor carrier? What would be the incremental total and per-vehicle cost to these parties of such a rule? What operational impact would the rule have on intermodal transportation?

9. Currently, § 396.17 requires that all commercial motor vehicles operated in interstate commerce be inspected at least once every 12 months. Proof of inspection must be carried on the vehicle. If an intermodal container chassis or trailer or other vehicle being offered for transportation does not have proof of inspection, the carrier should recognize, irrespective of the appearance of the vehicle, that it may not be operated in interstate commerce. How often do equipment providers tender and motor carriers accept container chassis trailers or other vehicles without proof that the periodic inspection was performed?

10. For cases in which vehicles have an inspection decal or other form of documentation indicating that the periodic inspection was performed within 3 months prior to the carrier accepting the container chassis or trailer for transportation, how often are vehicle defects or deficiencies found during roadside inspections?

11. For cases in which vehicles have an inspection decal or other form of documentation indicating that the periodic inspection was performed between 3 months and 6 months of the carrier accepting the container chassis or trailer for transportation, how often are vehicle defects or deficiencies found during roadside inspections?

12. For cases in which vehicles have an inspection decal or other form of documentation indicating that the periodic inspection was performed between 6 months and 9 months of the carrier accepting the container chassis or trailer for transportation, how often are vehicle defects or deficiencies found during roadside inspections?

13. Could the safety objectives of this rulemaking be accomplished by requiring more frequent periodic inspections of container chassis and certain trailers (e.g., every 6 months, or 3 months) with documentation or proof of inspection on the vehicle and an inspection report made available within 48 to 72 hours of a request from a Federal or State official?

14. One alternative to the FHWA issuing new regulations is for motor carriers and/or entities offering the container chassis or trailers for transportation to develop maintenance consortiums or make similar arrangements to ensure that routine maintenance is performed and repairs are made in a timely manner. What has the private sector done to resolve the problem of maintenance of intermodal container chassis and trailers?

Public Meetings

To provide the opportunity for additional input on this rulemaking, the Department intends to hold three public meetings in the coming months. The dates, times, and specific locations of these public meetings have not yet been determined, but will be announced in future **Federal Register** notices and press releases. Persons desiring more details on these meetings can also receive direct notification by addressing their requests to the individuals identified in this **Federal Register** notice under the section entitled ''For Further Information Contact.''

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket room at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file, in the docket, relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this is a significant regulatory action under Executive Order 12866 and under the Department of Transportation's regulatory policies and procedures because of the substantial public interest anticipated in this action. An organization representing ocean common carriers wrote to the agency while this notice was being prepared. It disputes most of the points made by the ATA petition and argues that the cost and delay attendant upon shifting regulatory burdens onto those who tender intermodal equipment to motor carriers is unacceptable. The document will be placed in the public docket. The FHWA expects other commenters to be equally forthright in expressing views

for and against the rule requested by the ATA.

Due to the preliminary nature of this document and lack of necessary information on costs and benefits, the FHWA is unable to evaluate the economic impact of the potential regulatory changes being considered in this rulemaking. Based upon the information received in response to this notice, the FHWA intends to carefully consider the costs and benefits associated with various alternatives proposed. Comments, information, and data are solicited on the economic impact of the potential changes described in this document or any alternative proposal submitted.

Regulatory Flexibility Act

Due to the preliminary nature of this document and lack of necessary information on costs and benefits, the FHWA is unable to evaluate the effects of the potential regulatory changes on small entities. Based upon the information received in response to this notice, the FHWA intends, in compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), to carefully consider the economic impacts of these potential changes on small entities. The FHWA solicits comments, information, and data on these potential impacts.

Unfunded Mandates Reform Act of 1995

The FHWA will analyze any proposed rule to determine whether it would result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, as required by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532).

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. Should future rulemaking action result in more frequent (periodic) inspection requirements, with accompanying increases in documentation and numbers of inspection reports, then an information collection request will be submitted to the Office of Management and Budget for consideration and approval.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 390

Highway safety, Highways and roads, Motor carriers, Motor vehicle identification and marking, Reporting and recordkeeping requirements.

49 CFR Part 396

Highway safety, Highways and roads, Motor carriers, Motor vehicle maintenance, Motor vehicle safety, Reporting and recordkeeping requirements.

Authority: 49 U.S.C. 504, 31133, 31136, and 31502; and 49 CFR 1.48.

Issued on: February 10, 1999.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 99–3839 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–22–P

Notices

Federal Register

Vol. 64, No. 31

Wednesday, February 17, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Northwest Sacramento Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Northwest Sacramento Provincial Advisory Committee (PAC) will meet on February 25, 1999, at the Mendocino National Forest Conference Room, 825 N Humboldt Avenue, Willows, California. The meeting will begin at 9 am and adjourn at 4 pm. Agenda items include: (1) Feedback from the public meetings regarding Clear Creek Watershed; (2) Update of the Clear Creek Watershed-update on grant proposals (CalFed); (3) PAC membership issues; and (4) Update on Northwest Forest Plan activities in Portland, Oregon. All PAC meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Connie Hendryx, USDA, Klamath National Forest, 1312 Fairlane Road, Yreka, California 96097; telephone 530–841–4468; TDD (530) 841–4573; email:chendryx/r5__klamath@fs.fed.us.

Dated: February 9, 1999.

Harry T. Sampson,

Acting Forest Supervisor.

[FR Doc. 99–3756 Filed 2–16–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Extend and Revise a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Statistics Service's (NASS) intention to request an extension for and revision to a currently approved information collection, the Stocks Report.

DATES: Comments on this notice must be received by April 23, 1999 be assured to consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4117 South Building, Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Stocks Report.

OMB Number: 0535–0007.

Expiration Date of Approval: July 31, 1999.

Type of Request: Intent to extend and revise a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production. The Stock Report Surveys provide estimates of off-farm stocks of grains rice, potatoes peanuts, hops, and dry beans. Off-farm stocks are combined with on-farm stocks to estimate stocks in all positions. Stocks statistics are used by the U.S. Department of Agriculture to help administer programs, by State agencies to develop research and promote the marketing of the products and by producers to find their best market opportunity. The Stocks Report has approval from OMB for a 3-year period. NASS intends to request that the survey be approved for another 3 years. These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting for this collection of information is estimated to average 18 minutes per response.

Respondents: Farms and businesses.

Estimated Number of Respondents: 13,250.

Estimated Total Annual Burden on Respondents: 15,000 hours.

Copies of this information collection and related instructions can be obtained without charge from Larry Gambrell, the Agency OMB Clearance Officer, at (202) 720–5778.

COMMENTS: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Larry Gambrell, Agency OMB Clearance Officer, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4162 South Building, Washington, D.C. 20250–2000. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, D.C., January 27, 1999.

Rich Allen,

Associate Administrator, National Agricultural Statistics Service.

[FR Doc. 99–3741 Filed 2–16–99; 8:45 am]

BILLING CODE 3410–20–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1022]

Expansion of Foreign-Trade Zone 1, Little Rock, AR

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Little Rock Port Authority on behalf of State of Arkansas Economic Development Commission, grantee of Foreign-Trade Zone 14, submitted an application to the Board for authority to expand FTZ 14–Site 1 and to include two new sites in Little Rock, Arkansas, involving Port of Little Rock and Little Rock National Airport facilities, within the Little Rock Customs port of entry (FTZ Doc. 16–98; filed March 27, 1998.

Whereas, notice inviting public comment was given in **Federal Register** (63 FR 16960, April 7, 1998 and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 14 is approved, subject to the Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 3rd day of February 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–3870 Filed 2–16–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign Trade Zones Board

[Order No. 1013]

Grant of Authority; Establishment of a Foreign-Trade Zone, Palm Springs, CA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for '' * * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the City of Palm Springs, California (the Grantee), has made application to the Board (FTZ Docket 2–98, filed January 12, 1998), requesting the establishment of a foreign-trade zone at sites in the Palm Springs, California, area, at and adjacent to the Palm Springs Regional Airport, a Customs user fee airport; and,

Whereas, notice inviting public comment has been given in the **Federal Register** (63 FR 3084, January 21, 1998); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the Act and the Board's regulations are satisfied and that approval of the application is in the public interest;

Now, Therefore,, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 236, at the sites described in the application, subject to the Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 3rd day of February 1999.

Foreign-Trade Zones Board.

William M. Daley,

Secretary of Commerce Chairman and Executive Officer

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–3868 Filed 2–16–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1021]

Approval for Subzone Expansion, (Shipbuilding), Foreign Trade Subzone 124B, North American Shipbuilding, Inc., Larose, LA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the South Louisiana Port Commission, grantee of FTZ 124, has requested authority on behalf of North American Shipbuilding, Inc.(NASI), operator of Subzone 124B at the NASI shipyard located in Larose, Louisiana, to expand Subzone 124B to include two new sites in Houma (Terrebonne Parish) and Port Fourchon (LaFourche Parish), Louisiana (FTZ Doc. 25–98, filed May 19, 1998);

Whereas, notice inviting public comment was given in the **Federal Register** (63 FR 29178, May 28, 1998);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval were subject to the standard shipyard restriction on foreign steel mill products;

Now Therefore, the Board hereby approves the request subject to the FTZ Act and the Board's regulations, including § 400.28, and further subject to the restrictions listed below.

Any foreign steel mill products admitted to the subzone, including plate, angles, shapes, channels, rolled steel stock, bars, pipes and tubes, not incorporated into merchandise otherwise classified, and which is used in manufacturing, shall be subject to Customs duties in accordance with applicable law, unless the Executive Secretary determines that the same item is not then being produced by a domestic steel mill.

In addition to the annual report, North American Shipbuilding, Inc., shall advise the Board's Executive Secretary (§ 400.28(a)(3)) as to significant new contracts with appropriate information concerning foreign purchases otherwise dutiable, so that the Board may consider whether any foreign dutiable items are being imported for manufacturing in the subzone primarily because of subzone status and whether the Board should consider requiring Customs duties to be paid on such items.

Signed at Washington, DC, this 3rd day of February 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–3869 Filed 2–16–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–805]

Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands: Extension of Time Limits for Preliminary Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limits of preliminary results of review.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results of

the 4th administrative review of the antidumping duty order on aramid fiber formed of poly para-phenylene terephthalamide from the Netherlands. This review covers one manufacturer and the period June 1, 1997, to May 31, 1998. This extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: February 17, 1999.

FOR FURTHER INFORMATION CONTACT: Eva Temkin or Javier Barrientos, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1767 or (202) 482–2849, respectively.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the initial time limits established by section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act'') (*i.e.*, March 1, 1999), the Department is extending the time limits for completion of the preliminary results until no later than June 30, 1999. *See* Decision Memorandum to Robert S. LaRussa, dated November 13, 1998, which is a public document on file in the Central Records Unit.

This extension is in accordance with section 751(a)(3)(A) of the Act (19 U.S.C. 1675(a)(3)(A)).

Dated: February 8, 1999.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–3872 Filed 2–16–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–825]

Notice of Extension of Time Limit for Antidumping Duty Administrative Review of Oil Country Tubular Goods From Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: February 17, 1999.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the antidumping duty administrative review of the antidumping order on oil country tubular goods from Korea, covering the period August 1, 1997 through July 31, 1998.

FOR FURTHER INFORMATION CONTACT: Doug Campau or Steve Bezirganian, AD/CVD Enforcement Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–3964 or (202) 482–0162, respectively.

SUPPLEMENTARY INFORMATION: Under section 751(a)(3)(A) of the Tariff Act, as amended (the Act), the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days after the last day of the anniversary month for the relevant order. In the instant case, the Department has determined that it is not practicable to complete the review within the statutory time limit. *See* Memorandum from Joseph A. Spetrini to Robert S. LaRussa (January 27, 1999). Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the preliminary results until August 13, 1999.

Dated: February 5, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99–3871 Filed 2–16–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

[A–580–807]

Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Notice of Final Court Decision and Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final court decision and amended final results of antidumpting duty administrative review.

SUMMARY: On November 23, 1998, in the case of *E.I. DuPont de Nemours & Company* v. *United States*, the United States Court of International Trade (the Court) affirmed the Department of Commerce's (the Department) redetermination for Cheil Synthetic Corporation (Cheil) and SKC Corporation (SKC) arising out of the first review of polyethylene terephthalate film, sheet, and strip (PET film) from the Republic of Korea. The review covers the period November 30, 1990 through May 31, 1992. As there is now a final and conclusive court decision in this action, we are amending the final results of review with respect to sales by Cheil and SKC during the review period. We will instruct the U.S. Customs Service to liquidate Cheil and SKC's entries accordingly.

EFFECTIVE DATE: February 17, 1999.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or John Kugelman, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4475 or 0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 26, 1998, the Court issued an order remanding in part the amended final results issued on February 12, 1996. *See E.I. Dupont de Nemours* v. *United States*, 4 F. Supp. 2d 1248 (CIT 1998). In its March 26, 1998 order the Court directed the Department to (1) determine whether, in light of SKC's U.S. customer's financial condition, SKC's reported short-term interest rate is consistent with the Federal Circuit's decision in *LMI-LaMetalli Industriale S.p.A.* v. *United States*, 912 F. 2d 455 (Fed. Cir. 1990) (*LMI*) and (2) reconsider its decision to deduct Cheil's inventory carrying costs (ICC) from foreign market value (FMV).

As directed by the Court, on remand we examined whether, in light of SKC's U.S. customer's financial condition, SKC's reported short-term interest rate was consistent with the *LMI* decision. In *LMI* the Federal Circuit held that the Department's use of higher home market borrowing rates did not reflect the respondent's actual borrowing experience because the respondent was able to secure financing in the United States at a lower rate. In the instant case, the Department determined that SKC's U.S. customer's financial condition was not determinative of SKC's borrowing costs in the United States. Furthermore, we found that because SKC's sales were denominated in Korean won, SKC had appropriately based its credit expense upon its borrowings in Korea. This is consistent with the Department's practice since the *LMI* decision of using the short-term interest rate tied to the currency in which the sales are denominated. *See e.g., Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Austria*, 60 FR 33551, 33555 (June 28, 1995); *see also* Import Administration Policy Bulletin No. 98.2,

Imputed Credit Expenses and Interest Rates, Feb. 23, 1998. Based upon the foregoing, we determined that SKC's calculation was consistent with *LMI*.

We also determined that because Cheil's sales in the United States were purchase price (PP) transactions, no deduction for inventory carrying costs is warranted from either FMV or PP. We revised our margin calculations for Cheil accordingly. This determination is consistent with our long-standing practice of deducting indirect selling expenses from USP only with respect to ESP transactions. *See e.g., Frozen Concentrated Orange Juice from Brazil; Final Results and Termination in Part of Antidumping Duty Administrative Review*, 61 FR 47502, 47503 (November 14, 1990.)

On November 23, 1998, the Court issued a final and conclusive ruling affirming our results of redetermination.

Amendment to Final Results of Review

Pursuant to section 516A(e) of the Act, we are now amending the final results for SKC and Cheil for the period November 30, 1990 through May 31, 1992. The recalculated margins for Cheil and SKC are outlined below:

Company	Margin (percent)
Cheil	0.07
SKC	0.11

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and FMV may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

We note that the Department has revoked the order with respect to Saehan Industries, Inc., the successor company to Cheil Synthetics, and that the current cash deposit rate for SKC is based upon an administrative review conducted subsequent to this segment of the proceeding. Therefore, these amended final results do not affect current cash deposit rates.

This notice is published pursuant to section 751(A) of the Act.

Dated: February 9, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–3867 Filed 2–16–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–412–811]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Amended Final Countervailing Duty Determination and Order in Accordance With Decision Upon Remand

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of amendment to final countervailing duty determination and order in accordance with decision upon remand.

SUMMARY: On December 18, 1998, pursuant to a remand by the U.S. Court of Appeals for the Federal Circuit in *Inland Steel Bar Co.* v. *United States*, 155 F.3d 1370, (September 18, 1998), and in response to a consent motion, the United States Court of International Trade (CIT) affirmed the Department of Commerce's (the Department's) redetermination on remand (October 12, 1993) regarding the final affirmative countervailing duty determination (U.K. lead bar final determination) in *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom*, 58 FR 6237 (January 27, 1993). The final countervailing duty rates for the U.K. lead bar final determination are listed below in the *Results of Remand* section.

EFFECTIVE DATE: February 17, 1999.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Christopher Cassel, Office of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Room 4012, Washington, D.C. 20230; telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION: On January 27, 1993, the Department published in the **Federal Register** (58 FR 6237) the final affirmative determination of its countervailing duty investigation on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom (U.K. lead bar final determination). Subsequently, the Department modified the privatization methodology used in the U.K. lead bar final determination as a result of the final countervailing duty determination in *Final Countervailing Duty Determination; Certain Steel Products from the United Kingdom*.[1] The Department requested, and the court granted, a remand to apply the methodology set out in the General Issues appendix to the privatization in the U.K. lead bar final determination. The Department filed its redetermination on remand in the U.K. lead bar final determination with the CIT on October 12, 1993. The *ad valorem* rate calculated for United Engineering Steel (UES) was 4.59 percent.

Results of Remand

On December 18, 1998, in response to a consent motion, the CIT affirmed the Department's final affirmative determination as revised by the October 12, 1993 remand determination. Therefore, in accordance with the results of remand affirmed by the CIT, we are amending the final countervailing duty determination and order. The final countervailing duty rates for the U.K. lead bar final determination and order are the following:

ASW Limited—20.33%
UES—4.59%
All Others—4.59%

The above rates will not affect the cash deposit requirements currently in effect, which will continue to be based on the rates found to exist in the most recently completed administrative review.

This amendment to the final countervailing duty determination notice and order is in accordance with sections 705(d) and 706(a) of the Tariff Act, as amended. (19 U.S.C. 1671d(d) and 1671e(a)) and §§ 351.210 and 351.211 of the Department's regulations (19 CFR 351.210 and 351.211 (1998)).

Dated: February 10, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–3873 Filed 2–16–99; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See* the sections of the General Issues Appendix, which are appended to the *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria*, 58 FR 37062, 37217 (July 9, 1993), entitled *Privatization*, *id.* at 37259, and *Restructuring*, *id.* at 37265.

DEPARTMENT OF COMMERCE

International Trade Administration

AGENCY: International Trade Administration, DOC.

ACTION: Notice of a closed meeting of the U.S. Automotive Parts Advisory Committee (APAC).

SUMMARY: The APAC will have a closed meeting on February 25, 1999 at the U.S. Department of Commerce to

discuss U.S.-made automotive parts sales in Japanese and other Asian markets.

DATES: February 25, 1999.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, U.S. Department of Commerce, Room 4036, Washington, DC 20230, telephone: 202–482–1418.

SUPPLEMENTARY INFORMATION: The U.S. Automotive Parts Advisory Committee (the ''Committee'') advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Automotive Parts Act of 1998 (Pub. L. 105–261). The Committee: (1) reports to the Secretary of Commerce on barriers to sales of U.S.-made automotive parts and accessories in Japanese and other Asian markets; (2) reviews and considers data collected on sales of U.S.-made auto parts and accessories in Japanese and other Asian markets; (3) advises the Secretary of Commerce during consultations with other Governments on issues concerning sales of U.S.-made automotive parts in Japanese and other Asian markets; and (4) assists in establishing priorities for the initiative to increase sales of U.S.-made auto parts and accessories to Japanese markets, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and (5) assist the Secretary of Commerce in reporting to Congress by submitting an annual written report to the Secretary on the sale of U.S.-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to its authorizing legislation. At the meeting, committee members will discuss specific trade and sales expansion programs related to automotive parts trade policy between the United States and Japan and other Asian markets.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on February 9, 1999, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the February 25 meeting of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b (c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: February 9, 1999.

Henry P. Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 99–3865 Filed 2–16–99; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Notice 2]

National Fire Codes: Request for Proposals for Revision of Codes and Standards

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

The National Institute of Standards and Technology (NIST) is publishing this notice for the National Fire Protection Association (NFPA) as a public service. NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

The National Fire Protection Association (NFPA) proposes to revise some of its fire safety codes and standards and requests proposals from the public to amend existing NFPA fire safety codes and standards. The purpose of this request is to increase public participation in the system used by NFPA to develop its codes and standards.

DATES: Interested persons may submit proposals on or before the dates listed with the standards.

ADDRESSES: Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269–9101.

FOR FURTHER INFORMATION CONTACT: Casey C. Grant, Secretary, Standards Council, at the above address, (617) 770–3000.

SUPPLEMENTARY INFORMATION:

Background

The NFPA develops fire safety codes and standards which are known collectively as the ''National Fire Codes.'' Federal agencies frequently use these codes and standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR part 51.

Request for Proposals

Interested persons may submit amendments, supported by written data, views, or arguments to Casey C. Grant, Secretary, Standards Council, NFPA, at the above address. Proposals should be submitted on forms available from the NFPA Codes and Standards Administration Office at the same address.

Each person must include his or her name and address, identify the document and give reasons for the proposal. Proposals received before or by 5 p.m. local time on the closing date indicated will be acted on by the Committee. The NFPA will consider any proposal that it receives on or before the date listed with the code or standard.

At a later date, each NFPA Technical Committee will issue a report which will include a copy of written proposals that the Committee has received and an account of their disposition by the Committee. Each person who has submitted a written proposal will receive a copy of the report.

Authority: 15 U.S.C. 272.

Dated: February 8, 1999.

Karen H. Brown,

Deputy Director.

NFPA No.	Title	Proposal closing date
NFPA 31–1997	Standard for the Installation of Oil-Burning Equipment	7/2/99
NFPA 32–1999	Standard for Dry-Cleaning Plants	1/5/01
NFPA 36–1997	Standard for Solvent Extraction Plants	7/2/99
NFPA 50–1996	Standard for Bulk Oxygen Systems at Consumer Sites	7/2/99
NFPA 51A–1996	Standard for Acetylene Cylinder Charging Plants	7/2/99
NFPA 68–1998	Guide for Venting of Deflagrations	7/2/99
NFPA 160–1998	Standard for the Flame Effects before an Audience	7/2/99
NFPA 231D–1998	Standard for Storage of Rubber Tires	3/5/99
NFPA 284–P*	Standard Test Method for Mattresses for Correctional Occupancies	7/2/99

NFPA No.	Title	Proposal closing date
NFPA 501–1997 and 1999	Standard on Manufactured Housing	3/1/99
NFPA 501A–1997 and 1999	Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities.	3/1/99
NFPA 502–1998	Standard for Road Tunnels, Bridges, and Other Limited Access Highways	8/13/99
NFPA 513–1998	Standard for Motor Freight Terminals	8/13/99
NFPA 804–1995	Standard for Fire Protect for Advanced Light Water Reactor Electric Generating Plants.	7/2/99
NFPA 805–P*	Standard on Performance-Based Fire Protection for Light Water Reactor Electric Generating Plants.	2/19/99
NFPA 901–1995	Standard Classifications for Incident Reporting and Fire Protection Data	7/2/99
NFPA 1126–1996	Standard for the Use of Pyrotechnics before a Proximate Audience	7/2/99
NFPA 1852–P*	Standard on Selection, Care, and Maintenance of Open-Circuit SCBA	4/1/99
NFPA 1912–P*	Standard on Refurbishing Fire Apparatus	4/26/99
NFPA 1994–P*	Standard on Protective Ensembles for Chemical or Biological Terrorism Agents	4/30/99
NFPA 8501–1997	Standard for Single Burner Boiler Operation	7/2/99
NFPA 8502–1999	Standard for Prevention of Furnace Explosions/Implosions in Multiple Burner Boilers.	7/2/99
NFPA 8503–1997	Standard for Pulverized Fuel Systems	7/2/99
NFPA 8504–1996	Standard on Atmospheric Fluidized-Bed Boiler Operation	7/2/99
NFPA 8505–1998	Standard for Stoker Operation	7/2/99
NFPA 8506–1998	Standard on Heat Recovery Steam Generators Systems	7/2/99

*P Proposed NEW drafts are available from the NFPA Codes and Standards Administration, 1 Batterymarch Park, Quincy, MA 02269.

[FR Doc. 99–3717 Filed 2–16–99; 8:45 am]
BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Notice 1]

National Fire Codes: Request for Comments on NFPA Technical Committee Reports

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) is publishing this notice for the National Fire Protection Association (NFPA) as a public service. NIST does not necessarily endorse, approve, or recommended any of the standards referenced in the notice.

The NFPA revises existing standards and adopts new standards twice a year. At its fall meeting in November or its annual meeting in May, the NFPA acts on recommendations made by its technical committees. The purpose of this notice is to request comments on technical committee reports which will be presented at the NFPA 1999 November Meeting.

DATES: Forty-one reports appear in the ''1999 November Meeting Report on Proposals'' which became available on January 22, 1999. Comments received on or before April 2, 1999, will be considered by the respective NFPA committees before final action is taken on the proposals.

ADDRESSES: The ''November 1999 Report on Proposals'' is available from NFPA, Fulfillment Center, 11 Tracy Drive, Avon, MA 02322. Comments on the technical committee reports should be submitted to Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269–9101.

FOR FURTHER INFORMATION CONTACT: Casey C. Grant, Secretary, Standards Council, NFPA, at the above address, (617) 770–3000.

SUPPLEMENTARY INFORMATION:

Background

Standards developed by NFPA technical committees have been used by various Federal agencies as the basis for Federal regulations concerning fire safety. The NFPA codes and standards are known collectively as the ''National Fire Codes.'' Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR part 51.

Revisions of existing standards and adoption of new standards are reported by NFPA technical committees at the NFPA fall meeting in November or at the annual meeting in May each year. The NFPA invites public comment on its technical committee reports contained in the ''1999 November Report on Proposals.''

Request for Comments

Interested persons may participate in these revisions by submitting written data, views, or arguments to Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269–9101. Commenters may use the forms provided for comments in the ''1999 November Report on Proposals.'' Each person submitting a comment should include his or her name and address, identify the notice, and give reasons for any recommendations. Comments received on or before April 2, 1999 will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the ''1999 Fall Meeting Report on Comments'' by September 3, 1999, prior to the November Meeting. A copy of this report will be sent automatically to each commenter. Action on the reports of the NFPA technical committees (adoption or rejection) will be taken at the November Meeting, November 14–17, 1999, in New Orleans, Louisiana, by NFPA members.

Authority: 15 U.S.C. 272.

Dated: February 8, 1999.

Karen H. Brown,

Deputy Director.

1999 FALL MEETING—REPORT ON PROPOSALS

[P=Partial revision; W=Withdrawal; R=Reconfirmation; N=New; C=Complete Revision]

Doc No.	Title	Action
1	Fire Prevention Code	C
12	Standard on Carbon Dioxide Extinguishing Systems	P
13E	Guide for Fire Department Operations in Properties Protected by Sprinkler and Standpipe Systems	C
14	Standard for the Installation of Standpipe and Hose Systems	P
70E	Standard for Electrical Safety Requirements for Employee Workplaces	P
97	Standard Glossary of Terms Relating to Chimneys, Vents and Heat-Producing Appliances	R
101	Code for Safety to Life from Fire in Buildings and Structures	P
102	Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures	W
130	Standard for Fixed Guideway Transit Systems	P
211	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances	P
253	Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source.	R
255	Standard Method of Test of Surface Burning Characteristics of Building Materials	P
257	Standard for Fire Test for Window and Glass Block Assemblies	C
269	Standard Test Method for Developing Toxic Potency Data for Use in Fire Hazard Modeling	R
286	Standard Method of Test for Room Corner Procedures	N
291	Recommended Practice for Fire Flow Testing and Marking of Hydrants	W
385	Standard for Tank Vehicles for Flammable and Combustible Liquids	P
386	Standard for Portable Shipping Tanks for Flammable and Combustible Liquids	W
430	Code for the Storage of Liquid and Solid Oxidizers	C
600	Standard on Industrial Fire Brigades	P
601	Standard for Security Services in Fire Loss Prevention	P
750	Standard on Water Mist Fire Protection Systems	P
850	Recommended Practice for Fire Protection for Electric Generating Plants and High Voltage Direct Current Converter Stations.	P
851	Recommended Practice for Fire Protection for Hydroelectric Generating Plants	P
1003	Standard for Airport Fire Fighter Professional Qualifications	C
1006	Standard for Rescue Technician Professional Qualifications	N
1035	Standard for Professional Qualifications for Public Fire and Life Safety Educator	C
1201	Standard for Developing Fire Protection Services for the Public	R
1250	Recommended Practice in Emergency Service Organization Risk Management	N
1410	Standard for Training for Initial Fire Attack	C
1452	Guide for Training Fire Service Personnel to Make Dwelling Fire Safety Surveys	C
1561	Standard on Fire Department Incident Management System	C
1581	Standard on Fire Department Infection Control Program	C
1582	Standard on Medical Requirements for Fire Fighters	C
1583	Recommended Practice for Fire Fighter Health and Wellness	N
1600	Recommended Practice for Disaster Management	C
1971	Standard on Protective Ensemble for Structural Fire Fighting	C
1976	Standard on Protective Clothing for Proximity Fire Fighting	C
1991	Standard on Vapor-Protective Suits for Hazardous Chemical Emergencies	C
1992	Standard on Liquid Splash-Protective Suits for Hazardous Chemical Emergencies	C
1993	Standard on Support Function Protective Clothing for Hazardous Chemical Operations	W

[FR Doc. 99–3716 Filed 2–16–99; 8:45 am]
BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 981029270–8270–01]

National Voluntary Laboratory Accreditation Program

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) has received a request to establish a laboratory accreditation program. In a letter dated August 5, 1998, the National Information Assurance Partnership (NIAP), a partnership between NIST and the National Security Agency, requested that NIST establish an accreditation program for Information Technology Security Testing. A report of the request letter is set out as an appendix to this notice. Announcement of this request by NIAP and of the NIST request for comments with respect thereto, are being made under the procedures of the National Voluntary Laboratory Accreditation Program (NVLAP) [15 CFR 285.13] of the referenced procedures.

DATES: Comments may be submitted on or before May 3, 1999.

ADDRESSES: Comments should be submitted to James L. Cigler, Chief, Laboratory Accreditation Program, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2140, Gaithersburg, Maryland 20899–2140. Copies of comments received will be available for inspection and copying at the Department of Commerce Central Reference and Records Inspections Facility, Room 6204, Hoover Building, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: James L. Cigler, telephone 301–975–4016; e-mail james.cigler@nist.gov; <http://ts.nist.gov/nvlap>.

SUPPLEMENTARY INFORMATION:

Background

Scope of Laboratory Accreditation

The requestor referenced two documents to be used in association with accreditation of Information Technology (IT) Security Testing laboratories: (1) ISO/IEC DIS 15408 Information technology—Security techniques—Evaluation criteria for IT

Security also called the Common Criteria for Information Technology Security Evaluation, and (2) Common Evaluation Methodology for Information Security (CEM), an international draft. NVLAP currently offers accreditation for laboratories conducting testing to Federal Information Processing Standard (FIPS) 140–1 for Cryptographic Modules. Information about the Common Criteria and the Common Evaluation Methodology is available at <http://csrc.nist.gov/cc/ccv20/ccv2list.htm>.

After the 75-day comment period, NIST will thoroughly evaluate all comments pertaining to the proposed accreditation program and publish in the **Federal Register** an announcement of the decision of the Director of NIST, regarding development of the program. Those who submit comments and those who request future information will be placed on the NVLAP mailing list to receive a copy of that publication. If the decision is made to develop the program, technical assistance and input will be sought from all interested parties. Assistance will be sought in the areas of: (1) Preparation of the technical criteria for the program, (2) establishment of the scope of the program based on the Common Criteria, and (3) development of appropriate proficiency testing programs. The NVLAP procedures also provide for public comment prior to publication of the final accreditation requirements.

Dated: February 8, 1999.

Karen H. Brown,

Deputy Director.

National Information Assurance Partnership

August 5, 1998.

Raymond G. Kramer,

Director, National Institute of Standards and Technology, Gaithersburg, MD 20899

Dear Mr. Kammer: The National Information Assurance Partnership (NIAP), a partnership between the National Institute of Standards and Technology (NIST) and the National Security Agency (NSA), requests the establishment of a National Voluntary Laboratory Accreditation Program (NVLAP) Laboratory Accreditation Program (LAP) for Information Technology (IT) Security Testing. The requested LAP will support the goals and objectives of both NIST and NSA in fulfilling their responsibilities in the area of computer and information systems security. This request is made in accordance with Title 15 Code of Federal Regulations Section 285.13.

NIST plays a vital role in protecting the security and integrity of information in computer systems in the public and private sectors. The Computer Security Act of 1987 (P.L. 100–235) reaffirmed NIST's leadership role in the federal government for the protection of unclassified information. NIST assists industry and government by promoting and supporting better security planning, technology, awareness and training.

NSA provides information systems security programs to protect classified and unclassified national security systems against exploitation through interception, unauthorized access, and related technical intelligence threats.

In a recent move to assist U.S. information security technology producers in achieving international competitiveness, NIST and NSA signed a letter of partnership establishing the National Information Assurance Partnership (NIAP). NIST and NSA have established a program under NIAP to evaluate conformance of IT products to international standards. This program, called the Common Criteria Evaluation and Validation Scheme, will help consumers make informed choices when selecting commercial off-the-shelf products in the area IT security and will help producers of IT security products gain acceptance in the global marketplace.

The NIAP Common Criteria Scheme requires IT security products to be tested in private sector, accredited testing laboratories using the test methods in ISO/IEC DIS 15408 (currently a Craft international standard), also called the Common Criteria, and the Common Evaluation Methodology (currently an international draft). Test reports from accredited laboratories will be reviewed by the NIAP Validation Body which will issue Common Criteria certificates for products that meet the NIAP Common Criteria Scheme requirements.

NIAP is working towards a Common Criteria Mutual Recognition Agreement with bodies in five foreign countries. By agreement, testing laboratories approved by the partners in each of the Agreement countries will be accredited as meeting the requirements of ISO/IEC Guide 25 by an organization that is internationally recognized as conforming to the requirements of ISO/IEC Guide 58.

NIST and NSA have been active participants in the development of the Common Criteria, the Common Evaluation Methodology, and the NIAP Common Criteria Scheme. NIST will provide technical assistance for the development of the LAP.

Statement of Perceived Need

The recent President's Commission on Critical Infrastructure Protection has pointed out that the United States is becoming increasingly dependent on information technology to carry out the day-to-day operations of business and government. This growing dependence on advanced technology, coupled with its inherent complexity, has introduced significant security vulnerabilities into the information systems that support the critical national infrastructure. Consumers within the public and private sectors are becoming increasingly aware of these vulnerabilities and are beginning to demand greater protection for their information from commercial IT products and systems.

As industry begins to respond to demands for security-enhanced IT products and systems, consumers must have confidence in the security claims producers make about them. Testing at an accredited laboratory provides confidence to consumers in the test results and that the tested products and systems conform to the security criteria.

Acceptance of test results from a commercial laboratory by consumers in other nations and government organizations, such as those organizations in the countries participating in the Common Criteria project, requires trust and confidence in the laboratory testing processes. This trust and confidence is achieved through the use of accredited testing laboratories and government involvement in validating the results of commercial security evaluations. Thus, governments have greater confidence in the evaluation processes employed in the respective national schemes of other nations.

Scope of the LAP, Applicable Standards, and Applicable Test Methods

The scope of the proposed LAP includes conformance testing of commercial off-the-shelf, security-enhanced, IT products and systems to international standards. Applicable standards and test methods defined by government and industry will be employed by NVLAP-accredited testing laboratories operating within the scope of the LAP. Initially the score of the LAP will draw from, ISO/IEC DIS 15408 Information technology—Security techniques—Evaluation criteria for IT Security also called the Common Criteria for Information Technology Security Evaluation and Common Evaluation Methodology for Information Technology Security (CEM), an international draft. Additional standards and test methods may be added as they become available.

Evidence of a national need to accredit calibration or testing laboratories for the specific scope beyond that served by an existing laboratory accreditation program in the public or private sector.

The scope of the proposed LAP is beyond that served by any existing laboratory accreditation program in the public or private sector. The only commercial security testing laboratories currently available to conduct Common Criteria-based testing are the Trust Technology Assessment Program (TTAP) laboratories under a program established by the National Security Agency. These laboratories operate under cooperative research and development agreements (CRADA) with NSA and have not been accredited to ISO Guide 25. Recognition of evaluation results in the context of the nations participating in the Common Criteria project requires that IT products be evaluated at accredited testing laboratories. The unique nature of security testing and the associated knowledge and skills needed to operate an accreditation program in this area make NVLAP the essential choice to develop and implement the proposed LAP.

NIAP will hold public workshops to solicit comments on the Common Criteria Scheme and the proposed LAP from all sectors including producers, the testing laboratory community, and consumers of IT security products in the private and government sectors.

Sincerely,

Stuart W. Katzke,

Chief, Computer Security Division, Information Technology Laboratory NIST.

Louis F. Giles,

Chief, Information Assurance Partnerships Evaluations, and Knowledge Management NSA.

cc: S. Wakid, Director, Information Technology Laboratory, NIST M. Jacobs, Deputy Director Information Systems Security, NSA

[FR Doc. 99–3718 Filed 2–16–99; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020899B]

Marine Mammals; File No. 772#69–03

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that the Southwest Fisheries Science Center, National Marine Fisheries Service, 8604 La Jolla shores Drive, La Jolla, CA 92038 has been issued an amendment to scientific research Permit No. 1024 (File No. 772#69).

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001).

FOR FURTHER INFORMATION CONTACT: Sara Shapiro or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On January 5, 1999, notice was published in the **Federal Register** (64 FR 483) that an amendment of Permit No. 1024, issued December 30, 1996 (62 FR 1875), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Permit No. 1024 authorizes the permit holder to conduct level B harassment activities [*i.e.* censuses] on, capture, handle, and release Antarctic pinnipeds in the South Shetland Islands, Antarctica. The holder is now authorized to increase the number of Antarctic fur seal (*Arctocephalus gazella*) pups and juveniles to be captured and handled for oxygen consumption and developmental physiology studies. The Holder will conduct these activities at Cape Shirreff on Livingston Island, Antarctica.

Dated: February 11, 1999.

E. Ruth Johnson,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–3848 Filed 2–16–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare an Environmental Impact Statement To Convert Two F–15 Formal Training Units to F–22 Units at Tyndall Air Force Base, Florida

The United States Congress has determined the need exists to phase the older F–15 aircraft out of the primary air superiority role. The F–22 ''Raptor'' has been chosen as the replacement aircraft to fulfill future combat air superiority requirements. Therefore, the United States Air Force (USAF) is announcing its intent to prepare an Environmental Impact Statement (EIS) to assess the potential environmental impacts of converting two of the three existing formal training units (FTUs) at Tyndall Air Force Base (AFB), Florida from F–15s to F–22s. This action will be known as the F–22 Conversion EIS.

Tyndall AFB currently supports training for the majority of USAF F–15 air-to-air pilots. It currently supports 87 aircraft, three FTUs, and 4,600 support personnel. In addition, it supports 1,625 additional personnel assigned to 29 associated units.

The USAF proposes conversion over a 5-year period starting in 2003. During this period, the total number of aircraft will increase from 78 to 105 at the peak (in 2008). From 2008 through 2012, the number of F–15s will be reduced to a single squadron of 28 aircraft. The total number of F–22s will remain constant after 2008 with 60 in two squadrons. This proposed action includes training of student pilots, instructor fighter pilots, and ground crews. It will also provide for construction, modification and/or use of operational and training facilities (academic facility, simulator, etc.), base operating support (housing, commissary, etc.), logistics support (maintenance facilities, supply, transportation), and the necessary military airspace to conduct the required training.

Because of the increased maneuvering capabilities of the F–22 over the F–15, additional military airspace is needed for pilot training. Currently, Tyndall AFB's most frequently used military airspace is over water approximately 50 miles southeast of the base near St. George Island. This area is called Warning Area–470, or simply W–470. A nonregulatory Warning Area (W) is airspace of defined dimensions designated over international waters that contains activity which may be hazardous to nonparticipating aircraft. The purpose of such warning areas is to warn nonparticipating pilots of the potential danger.

W–470 starts 3 nautical miles (nm) from land and extends south into the Gulf of Mexico approximately 100 nm. Less frequently, Tyndall AFB aircraft use the airspace called W–151 which lies over the Gulf of Mexico south of Eglin AFB that is approximately 100 nm out. Tyndall AFB aircraft also use over 3,000 square miles of over-land military airspace for subsonic air-to-air training. The areas to the north, east, and southeast of the base are called the Tyndall Military Operating Areas (MOAs).

For supersonic training, the USAF proposes to maximize the use of W–470, to increase the frequency of use of W–151, and to add W–168 for unrestricted training. The W–168 airspace lies south and east of W–470, nearly 140 nm from St. George Island. It extends offshore from approximately Tampa to Ft. Meyers. For large-scale exercises and as an overflow training area, the USAF proposes use of the areas known as the Eglin Water Test Areas (EWTAs), which is airspace located further out in the Gulf, below W–151 and W–470.

The alternatives being considered include the mix of military airspace used for training and alternative locations for siting new facilities. Alternative airspace use includes: (1) Using the same airspace used by the F–15s (Tyndall overland areas, W–470, and W–151 on a limited basis), including recharting of the over water airspace to accommodate the larger area needed for the F–22s; (2) using the same airspace used by the F–15s, with regular use of W–168, increased use of W–151, and limited use of the EWTAs and W–155; and (3) using the same airspace used by the F–15s, with increased use

of W–151 and W–155. W–155 airspace lies over the Gulf of Mexico south of Pensacola, Florida, which extends for about 75 nm. All locations for the construction of new facilities will be on Tyndall AFB.

The USAF is planning a series of public scoping meetings on the following dates and times at the indicated locations:

1. Apalachicola—Community Center, No. 1 Battery Park, March 9, 1999, 7:30 p.m. Eastern Standard Time.

2. Marianna—Chipola Junior College, Public Service Building, 4487 Long House Court, March 10, 1999, 7:30 p.m. Central Standard Time.

3. Tallahassee—Florida State University, Moore Auditorium in the Oglesby Student Union Building, March 11, 1999, 7 p.m. Eastern Standard Time.

4. Panama City—Gulf Coast Community College, Gardner Seminar Room, March 12, 1999, 7:30 p.m. Central Standard Time.

The purpose of these meetings is to solicit comments relevant to the scope of issues to be considered in the EIS and to identify significant environmental issues to be analyzed in depth in the EIS from government agencies, private organizations, and the public. Questions or clarifications concerning the proposal, or any other information, will be answered as they relate to the scope of the effort anticipated. The Air Force will consider all reasonable alternatives offered.

The scoping meetings will provide opportunities for clarification of the proposal. Written comments and questions submitted at the meeting or any time during the formal scoping period will be considered in their entirety and will carry the same weight as oral comments.

To ensure the USAF has sufficient time to consider public input in the preparation of the Draft EIS, comments should be submitted to the address below by March 15, 1999. For further information concerning the preparation of the F–22 Conversion EIS, or to provide written comments, please contact: Mr. Herman Bell, Tyndall Air Force Base, Public Affairs Office, 325 FW/PA, 445 Suwannee Road, Suite 129, Tyndall AFB, Florida 32403.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–3720 Filed 2–16–99; 8:45 am]

BILLING CODE 5000–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability of the Record of Decision for Pilot Testing Neutralization/Supercritical Water Oxidation of VX Agent at the Newport Chemical Depot, Indiana

AGENCY: Department of the Army, DoD.

ACTION: Record of decision.

SUMMARY: This announces the availability of the Record of Decision (ROD) which documents and explains the Department of the Army's decision to construct and operate a facility to pilot test the chemical neutralization process followed by supercritical water oxidation (SCWO) as a potential disposal technology for agent VX stored at the Newport Chemical Depot (NECD).

ADDRESSES: To obtain copies of the ROD, contact Ms. Mona Harney, Newport Outreach Office, 140 South Main Street, Newport, Indiana 47966.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Herlinger at (800) 488–0648 or (410) 463–2583.

SUPPLEMENTARY INFORMATION: The Army has determined that the Final Environmental Impact Statement (EIS) adequately addresses the potential impacts of the Army's actions relating to the disposal of agency VX stored at NECD. The Army has also determined that the conclusions in the Final EIS establish that the decision to pilot test the chemical neutralization process followed by SCWO at the preferred site provides maximum protection to the environment, the general public, and workers at the pilot test facility. The Army plans to dispose of up to 615 tons of agent VX stored at NECD consistent with the terms of the ROD. The alternatives considered in this Final EIS are the proposed action and no action (continued storage of VX in ton containers). Although the no action alternative is not viable under Public Law 99–145, it was analyzed to provide a comparison with the proposed action. In addition, the no action alternative would not comply with Public Law 102–484, which specifies that Army must consider using a technological alternative to incineration.

At one time, the option of sending the neutralization hydrolysate to an off-site treatment facility was under consideration by the Army. However, technical and programmatic evaluations concluded that off-site treatment is not suitable at this time. Based on the results of these impact analyses, it is concluded that conducting pilot test operations at NECD is the preferred environmental alternative for implementing the neutralization process, followed by SCWO.

Copies of the ROD can be obtained by calling the Newport Outreach Office at (765) 492–4445. Questions may be forwarded to the Office of the Program Manager for Chemical Demilitarization, ATTN: SFAE–CD–P (Ms. Herlinger), Building E4585, Aberdeen Proving Ground, Maryland 21010–4005; or via e-mail at cherlin@cdra.apgea.army.mil.

Dated: February 10, 1999.

Patrick J. Wakefield,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I,L&E).

[FR Doc. 99–3849 Filed 2–16–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Submission of OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On January 5, 1999, a 60-day notice inviting comment from the public was inadvertently published for the Vocational and Technical Education National Centers in the **Federal Register** (64 FR 484) dated January 5, 1999. This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collection (1890–0001). Therefore, this notice amends the public comment period for this program to 30 days. The Acting Leader, Information Management Group, Office of the Chief Information Officer, hereby issues a correction notice on the submission for OMB review as required by the Paperwork Reduction Act of 1995. Since an incorrect public notice was published on January 5, the Department of Education is correcting the end date to the 30 days as required for discretionary grants instead of 60 days.

DATES: Interested persons are invited to submit comments on or before March 19, 1999.

ADDRESSES: Written comment should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW,

Room 5624, Regional Office Building 3, Washington, DC 20202–4651 or should be electronically mailed to the internet address *Pat__Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196.

Dated: February 10, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

[FR Doc. 99–3745 Filed 2–16–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 19, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address *Pat__Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: February 10, 1999.

William E. Burrow,

Acting Leader Information Management Group, Office of the Chief Information Officer.

Office of Bilingual Education and Minority Languages Affairs

Type of Review: New.
Title: Transfer of Reading Skills from Spanish to English: A Study of Young Learners.
Frequency: One time.
Affected Public: Individuals or households; Not-for-profit institutions.
Reporting and Recordkeeping Burden:
Responses: 366.
Burden Hours: 584.
Abstract: The Agency needs the information to help inform national policies and practices related to reading instruction for English-language learners. Respondents will be 180 English-language learners in 4–6 schools in El Paso, Chicago, and Boston.

[FR Doc. 99–3746 Filed 2–16–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–200]

Application To Export Electric Energy; American Electric Power Service Corporation

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: American Electric Power Service Corporation (AEPSC) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before March 19, 1999.

ADDRESS: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Steven Mintz (Program Office) 202–586–9506 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On December 22, 1998, as supplemented on February 3, 1999, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from AEPSC for authorization to export electric energy to Canada. AEPSC has seven public utility affiliates which, collectively, are known as the ''AEP Operating Companies.'' The AEP Operating Companies are investor-owned public utilities that serve retail and wholesale customers in Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia, and West Virginia. They include: Appalachian Power Company; Columbus Southern Power Company; Indiana Michigan Power Company; Kentucky Power Company; Kingsport Power Company; Ohio Power Company; and Wheeling Power Company. AEPSC and the AEP Operating Companies are wholly-owned subsidiaries of the American Electric Power Company, Inc., a registered holding company with headquarters in Columbus, Ohio.

In its February 3, 1999 supplemental filing, AEPSC indicated that export authorization was being sought only for its generation-owning affiliates, thus excluding Kingsport Power Company and Wheeling Power Company from the application.

The energy and capacity to be exported will be from either surplus generation of the AEP Operating Companies or from purchases on the wholesale market. The Applicants intend to export to Canada using the existing international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities, Detroit Edison Company, Eastern Maine

Electric Cooperative, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power, Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power and Vermont Electric Transmission Company. The construction of each of the international transmission facilities to be utilized by AEPSC, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the AEPSC application to export electric energy to Canada should be clearly marked with Docket EA–200. Additional copies are to be filed directly with F. Mitchell Dutton, Esq., American Electric Power, 1 Riverside Plaza, Columbus, Ohio 43215–2373 *and* John R. Lilyestrom, Esq., Hogan & Hartson, LLP., 555 13th Street, NW, Washington, DC 20004.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at http://www.fe.doe.gov. Upon reaching the Fossil Energy Home page, select ''Regulatory,'' then ''Electricity, and then ''Pending Proceedings'' from the options menus.

Issued in Washington, D.C., on February 11, 1999.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 99–3833 Filed 2–16–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket Nos. EA–202 and EA–203]

Applications To Export Electric Energy; Merrill Lynch Capital Services, Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Merrill Lynch Capital Services, Inc. (MLCS) has applied for authority to transmit electric energy from the United States to Mexico and to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before March 19, 1999.

ADDRESS: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Xavier Puslowski (Program Office) 202–586–4708 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On January 22, 1999, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received two separate applications from MLCS to transmit electric energy from the United States to Mexico and to Canada. MLCS is a power marketer and does not own or control any facilities for the generation or transmission of electricity, nor does it have a franchised service area. MLCS proposes to transmit to Mexico and to Canada electric energy purchased from electric utilities and other suppliers within the U.S.

In FE Docket EA–202, MLCS proposes to arrange for the delivery of electric energy to Mexico over the international transmission facilities owned by San Diego Gas and Electric Company, El Paso Electric Company, Central Power and Light Company, and Comision Federal de Electricidad, the national electric utility of Mexico.

In FE Docket EA–203, MLCS proposes to arrange for the delivery of electric energy to Canada over the international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power, Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company.

The construction of each of the international transmission facilities to be utilized by MLCS, as more fully described in the applications, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the MLCS application to export electric energy to Mexico should be clearly marked with Docket EA–202. Comments on the MLCS application to export electric energy to Canada should be clearly marked with Docket EA–203. Additional copies are to be filed directly with Douglas F. John, John and Hengerer, 1200 17th Street, N.W. Suite 600, Washington, D.C. 20036 *and* Richard I. Beitler, Vice President and Senior Counsel, Merrill Lynch Capital Services, Inc. World Financial Center, 250 Vesey Street, North Tower, New York, New York, 10281–1312.

A final decision will be made on these applications after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA) and a determination is made by the DOE that the proposed actions will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of these applications will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at http://www.fe.doe.gov. Upon reaching the Fossil Energy Home page, select ''Regulatory'', then ''Electricity'', then ''Pending Proceedings'' from the options menus.

Issued in Washington, D.C., on February 11, 1999.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 99–3834 Filed 2–16–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–201]

Application To Export Electric Energy; Public Service Electric and Gas Company

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Public Service Electric and Gas Company (PSE&G) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before March 19, 1999.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Steven Mintz (Program Office) 202–586-9506 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On January 19, 1998, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from PSE&G to transmit electric energy from the United States to Canada. PSE&G, a generation and transmission-owning public utility with its service territory in New Jersey, proposes to export electric energy to Canada that is surplus to its native load or is purchased from other sources.

PSE&G proposes to arrange for the delivery of electric energy to Canada over the international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power, Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company.

The construction of each of the international transmission facilities to be utilized by PSE&G, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the PSE&G application to export electric energy to Canada should be clearly marked with Docket EA–201. Additional copies are to be filed directly with Dennis Sobieski, Manager, Market Development, Public Service Electric and Gas Company, 80 Park Plaza, T21, P.O. Box 570, Newark, New Jersey 07102 *and* Richard P. Bonnifield, General Solicitor, Public Service Electric and Gas Company, 80 Park Plaza, T5G, P.O. Box 570, Newark, New Jersey 07102.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA), and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at http://www.fe.doe.gov. Upon reaching the Fossil Energy Home page, select ''Regulatory'' and then ''Electricity'' from the options menus.

Issued in Washington, D.C., on February 11, 1999.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 99–3831 Filed 2–16–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Department of Energy, Los Alamos National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos National Laboratory. The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, February 24, 1999: 6:00 p.m.—9:00 p.m., 6:30 p.m. to 7:00 p.m. (public comment session).

ADDRESS: El Convento, Bond Street, Expañola, New Mexico.

FOR FURTHER INFORMATION CONTACT: Ms. Ann DuBois, Northern New Mexico Citizens' Advisory Board, Los Alamos National Laboratory, 528 35th Street, Los Alamos, New Mexico 87544, (505) 665–5048.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. By-law amendments.
2. Committee reports.
3. Other Board business will be conducted as necessary.

Public Participation: The meeting is open to the public. The public may file written statements with the Committee, either before or after the meeting. A sign-up sheet will also be available at the door of the meeting room to indicate a request to address the Board. Individuals who wish to make oral presentations, other than during the public comment period, should contact Ms. Ann DuBois at (505) 665–5048 five (5) business days prior to the meeting to request that the Board consider the item for inclusion at this or a future meeting. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved prior to publication.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal

Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Ms. M.J. Byrne, Deputy Designated Federal Officer, Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87185–5400.

Issued at Washington, DC on February 11, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–3835 Filed 2–16–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507(d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) Collection number and title; (2) summary of the collection of information (includes sponsor (the DOE component)), current OMB document number (if applicable), type of request (new, revision, extension, or reinstatement); response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) a description of the likely respondents; and (5) an estimate of the total annual reporting burden (estimated number of respondents times the proposed frequency of response per year times the estimated average hours per response.)

DATES: Comments must be filed on or before March 19, 1999. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3087. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Jay Casselberry, Statistics and Methods Group, (EI–70), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585–0670. Mr. Casselberry may be telephoned at (202) 426–1116, FAX (202) 426–1081, or e-mail at Jay.Casselberry@eia.doe.gov.

SUPPLEMENTARY INFORMATION:

The energy information collection submitted to OMB for review was:

1. FE–746R, ''Import and Export of Natural Gas.''

2. Department of Energy/Fossil Energy; OMB No. 1901–0294; Extension of a Currently Approved Collection; Required to Obtain or Retain Benefits.

3. The reporting requirements set forth in FE–746R include applications filed by persons seeking authorization to import or export natural gas, and the information collected quarterly to monitor such trade under the North American Free Trade Agreement (NAFTA), as well as other trade falling outside the parameters of NAFTA.

4. Businesses or other for-profit.

5. 4,080 hours (150 applications annually with an average estimated burden of 11.2 hours per application and 1200 quarterly reports with an estimated average burden of 2 hours per report).

Statutory Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, DC, February 10, 1999.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 99–3845 Filed 2–16–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–190–000]

East Tennessee Natural Gas Company; Notice of Request Under Blanket Authorization

February 10, 1999.

Take notice that on February 2, 1999, East Tennessee Natural Gas Company, (East Tennessee), P.O. Box 2511 Houston, Texas, 77752, filed in Docket No. CP99–190–000 a request pursuant to Sections 157.205, 157.212 and 157.216 (b) of the Commission's Regulations and East Tennessee's blanket certificate issued at Docket No. CP82–412–000 for authorization to modify equipment at an existing delivery point in Maury County, Tennessee for continued service to Solutia, Inc. (Solutia), formerly Monsanto Chemical Company under East Tennessee's IT (interruptible) Rate Schedule, all as more fully set forth in the request which is on file with the Commission and open to public inspection. The application may be viewed on the web at www.ferc.fed.us. Call 202–208–2222 for assistance.

East Tennessee states that it requests to remove an existing 6-inch meter tube and install in its place a 1-inch mini-turbine meter. This meter station included a second (4-inch) meter tube which East Tennessee will leave in place. Also, East Tennessee proposes to remove the existing chart recorders and replace them with electronic gas measurement equipment. The present maximum delivery capacity at the meter station utilizing both the 6-inch tube and the 4-inch tube is about 14,965 MMcf per day. The maximum daily capacity at the meter station following modification would be about 4,536 MMcf per day, which would satisfy Solutia's requirements.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3808 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–220–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

February 10, 1999.

Take notice that on February 5, 1999, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on Appendix A of the filing, with an effective date of March 8, 1999.

Great Lakes states that the purpose of the filing is to provide the necessary flexibility under its tariff to negotiate rates with its customers. Great Lakes states that this filing is made in accordance with the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines, issued on January 31, 1996, in Docket No. RM95–6–000 (Policy Statement) and the subsequent Commission orders applying the Policy Statement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us.us/online/rims.htm (please call (202) 208–0400 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3823 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–62–002]

Midcoast Interstate Transmission, Inc.; Notice of Compliance Filing

February 10, 1999.

Take notice that on February 5, 1999, Midcoast Interstate Transmission, Inc. (Midcoast) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective November 2, 1998:

Sub. Fourth Revised Sheet No. 79
First Sub. Second Revised Sheet No. 79A
Sub. Original Sheet No. 79C
Sub. Third Revised Sheet No. 154

Midcoast asserts that the purpose of this filing is to comply with the Commission's Order No. 587–H, Standards for Business Practices of Interstate Natural Gas Pipelines issued on July 15, 1998 in Docket No. RM96–1–008 and Mr. Kevin P. Madden's Letter Order in these proceedings dated January 26, 1999.

Midcoast has requested that the Commission grant such waivers as may be necessary to accept this filing and to make it effective on November 2, 1998.

Midcoast states that copies of the filing were served on each of its firm customers, interruptible customers and all affected state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–0400 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3821 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–191–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

February 10, 1999.

Take notice that on February 2, 1999, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP99–191–000 a request pursuant to Sections 157.205 and 157.208 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.208) for authorization to install and operate approximately 15 miles of 16-inch pipeline, with appurtenances, to loop the Elk River branchline located in Anoka and Sherburne Counties, Minnesota. Northern makes such request under its blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance.

Northern states that the loop line is necessary to meet third through fifth year Peak Day 2000 firm obligations for Minnegasco, a Division of NorAm Energy Corporation (Minnegasco) and Northern States Power Company-Minnesota (NSP–MN). Northern avers that its Peak Day 2000 Expansion was designed to serve the incremental capacity requirements of its shippers over a five year period commencing November 1, 1997. It is indicated that Minnegasco and NSP–MN contracted for a incremental firm entitlement of 23,873 MMBtu of natural gas per day to meet third through fifth year incremental growth to markets served by Northern's Elk River branchline.

Northern estimates the total cost to install the proposed facilities to be $12.5 million, and indicates that the cost will be financed with internally generated funds.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to

be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3809 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP85–60–012]

Overthrust Pipeline Company; Notice of Report of Refunds

February 10, 1999.

Take notice that on January 26, 1999, Overthrust Pipeline Company (Overthrust) tendered for filing a refund report. Overthrust states that the report documents refunds of amounts pertaining to Deferred Income Tax (DIT) refund payments for the year 1998.

Overthrust states that it is filing the refund report pursuant to a Commission order dated May 21, 1991, ''Order Approving Settlement with Modifications'' in Docket Nos. RP85–60–000 and –002. Overthrust explains that Article V of the settlement as modified, requires Overthrust to file an annual report 60 days after making the actual DIT refunds.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before February 17, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–0400 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3820 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–192–00]

Transportation Gas Pipe Line Corporation; Notice of Application

February 10, 1999.

Take notice that on February 3, 1999, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, field in, abbreviated form, in Docket No. CP99–192–000, an application pursuant to Section 7 (b) and (c) of the Natural Gas Act requesting authorization by June 7, 1999 of a certain Tombigbee River replacement crossing, and approval to abandon the existing facilities at the same location. Transco makes such request, all as more fully set forth in the request on file with the Commission and open to public inspection. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance.

Transco proposes to install approximately 2,085 feet of new 30-inch diameter Main Line A by horizontal directional drilling under the Tombigbee River, at the location of Transco's existing pipeline crossing, of the Tombigbee River. Transco states that there has been chronic mass erosion of the banks at this river crossing, exposing Transoc's lines and subjecting them to potential physical damage from boat and barge traffic. Transco states Main Line A is not yet exposed, but visible signs of erosion indicate that it will soon be exposed. Transco further indicates that it would replace a 30-inch diameter crossing by an identical 30-inch crossing and system capacity across the Tombigbee River will remain unchanged at 3,878,052 Mcfd. It is further stated that the existing Main Line A would be retired—portions by removal and a portion in place. Transco also states that the estimated cost of the installation of the new Main Line A is $2,438,465.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 3, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction confered upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time the required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely field, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transco to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3810 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–5–29–000]

Transcontinental Gas Pipe Line Corp.; Notice of Proposed Changes in FERC Gas Tariff

February 10, 1999.

Take notice that on February 4, 1999 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Fifteenth Revised Sheet No. 28, proposed to be effective February 1, 1999.

Transco states that the purpose of the instant filing is to track rate changes attributable to storage service purchased from Texas Eastern Transmission Corporation (TETCO) under its Rate Schedule X–28 the costs of which are included in the rates and charges payable under Transco's Rate Schedule S–2. The tracking filing is being made pursuant to Section 26 of the General Terms and Conditions of Transco's Third Revised Volume No. 1 Tariff.

Transco states that Included in Appendix B attached to the filing is the explanation of the rate changes and details regarding the computation of the revised Rate Schedule S–2 rates.

Transco states that copies of the filing are being mailed to each of its S–2 customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with §§ 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–0400 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3825 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–221–000]

Consumer Services Association, Inc. d/b/a United Gas Services vs. Utilicorp United, Inc. d/b/a Peoples Natural Gas Company; Notice of Complaint

February 10, 1999.

Take notice that on February 5, 1999, pursuant to Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, Consumer Services Association, Inc. d/b/a United Gas Services (UGS) tendered for filing a complaint against Utilicorp United, Inc. d/b/a Peoples National Gas Company (Utilicorp) regarding capacity release conditions on Northern Natural Gas Company's (Northern) system.

UGS executed a Marketer Agreement with Utilicorp (the Agreement), and became an approved participant in Utilicorp's Energy Options Program. UGS entered into prearranged capacity release transactions with Utilicorp pursuant to which UGS acquired a portion of Utilicorp's firm capacity on Northern. UGS has utilized the firm transportation capacity on Northern's pipeline system to serve customers under the Energy Options Program.

UGS determined that because of unseasonably warm weather it would not require all of the released firm capacity on Northern held by UGS and therefore decided to provide service to Lincoln Regional Center (LRC) in Lincoln, Nebraska. LRC is not a participant in the Energy Options Program.

UGS was informed that Utilicorp would not permit UGS to utilize its firm capacity on Northern to nominate gas for receipt into Utilicorp's local distribution system to provide service to a non-Energy Options Program customer. UGS contends that Utilicorp has violated the Commission's capacity release program by refusing to accept a valid nomination for receipt of natural gas into its distribution system.

UGS requests that the Commission:

(a) establish a proceeding and order a full evidentiary hearing to investigate Utilicorp's rejection of UGS's nomination of gas into Utilicorp's distribution system at the receipt point from Northern;

(b) find Utilicorp's conduct in violation of the NGA, the Commission's regulations, and Northern's FERC Gas Tariff;

(c) prohibit Utilicorp from participating in any capacity release transactions on Northern or on any other interstate pipeline until Utilicorp has ceased its unlawful conduct;

(d) as a condition to being authorized to resume participation in capacity release transactions, require Utilicorp to compensate UGS for demand charges paid by UGS to Northern for capacity obtained by UGS pursuant to its capacity release prearranged transaction with Utilicorp; and

(e) grant such other relief as the Commission determines to be required by the public convenience and necessity and the requirements of the NGA and NGPA.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before February 25, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–0400 for assistance). Answers to the complaint must be filed on or before February 25, 1999.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3824 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–219–000]

Viking Gas Transmission Company; Notice of Crediting Report

February 10, 1999.

Take notice that on February 4, 1999, Viking Gas Transmission Company (Viking) tendered for filing its IT Revenue Crediting Report for the period of November 1, 1997 through October 31, 1998.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before February 17, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–0400 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3822 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2009–018]

Virginia Electric and Power Company; Notice of Commission Staff Meeting With North Carolina Power Company on Re-licensing of the Roanoke Rapids and Gaston Hydropower Project

February 10, 1999.

Virginia Power Company filed a License Application and a Draft Environmental Assessment (DEA) on January 28, 1999 for the Roanoke Rapids and Gaston Hydropower Project (No. 2009–018) located on the Roanoke River, North Carolina. The DEA was prepared in coordination with a group of representatives from various federal, state and local agencies, non-governmental organizations, and local interest groups.

Commission staff are currently reviewing these documents and will attend a meeting, as follows, to participate in settlement discussions being conducted by Virginia Power Company.

Meeting Date: February 16, 1999 from 9:00 am to 3:00 pm.

Location: Lakeland Arts Center, 411 Mosby Avenue, Littleton NC.

Interested parties are welcome to attend this meeting. For further information please contact the following individuals:

Wayne Dyok, Harza Engineering, 301–249–1772

Monte TerHaar, Federal Energy Reg. Comm., 202–219–2768 or e-mail, monte.terhaar@ferc.fed.us

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3811 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–70–000, et al.]

Empresa Guaracachi S.A., et al.; Electric Rate and Corporate Regulation Filings

February 9, 1999.

Take notice that the following filings have been made with the Commission:

1. Empresa Guaracachi S.A.

[Docket No. EG99–70–000]

Take notice that on February 3, 1999, Empresa Electrica Guaracachi Sociedad Anonima (Empresa Guaracachi S.A. or Applicant), filed with the Federal Energy Regulatory Commission an application for redetermination of exempt wholesale generator (EWG) status pursuant to Part 365 of the Commission's regulations. Applicant was originally determined to be an EWG on September 18, 1995. Empresa Guaracachi S.A., .72 FERC ¶ 61,250 (1995). Applicant, a Bolivian corporation, states that is sole business purpose is to own and operate electric generating facilities in the Republic of Bolivia.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Woodstock Hills L.L.C.

[Docket No. EG99–71–000]

On February 2, 1999, Woodstock Hills L.L.C. (Woodstock), 191 W. 5th Street, Cottonwood, Minnesota 56229, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Woodstock will own and operate an approximate 10.2 megawatt windpowered electric generation facility (Facility) in Woodstock, Minnesota. Woodstock will sell the electric output of the Facility exclusively at wholesale. The Facility will be located in proximity to the transmission facilities of Northern States Power Company, and the Facility will include only those interconnecting transmission facilities necessary to effect sales of electric energy at wholesale.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Hydro Investors, Inc., v. Trafalgar Power, Inc., Trafalgar Power, Inc.

[Docket No. EL99–26–000, QF87–499–001, QF87–500–001, QF87–501–001, QF88–413–001, QF88–414–001, QF88–415–001, and QF88–416–001]

On February 4, 1999, Hydro Investors, Inc. (HII), tendered for filing a petition in opposition to the Commission's treatment of its request to revoke QF certification as a request for declaratory relief. HII has not paid a filing fee for the filing of a request for declaratory order. In its February 4, 1999 pleading, HII asks the Commission to find that its request to revoke QF certification is not in the nature of a request for declaratory order and asks that the Commission act on its request for revocation of QF status without the payment of a fee.

Comment date: March 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. U.S. Power & Light, Inc., ENMAR Corporation, Ocean Energy Services, Inc., and Stand Energy Corporation

[Docket Nos. ER96–105–013, ER99–254–001, ER96–588–008 and ER95–362–016]

Take notice that on February 3, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet under Records Information Management System (RIMS) for viewing and downloading.

5. Hydro Investors, Inc. v. Trafalgar Power, Inc., Trafalgar Power, Inc. and Christine Falls Corporation

[Docket Nos. EL99–26–000, QF87–499–001, QF87–500–001, QF87–500–001, QF87–501–001, QF88–413–001, QF88–414–001, QF88–415–001, and QF88–416–001]

On February 4, 1999, Hydro Investors, Inc. (HII), filed a petition in which it requests that the Commission declare that the above-referenced facilities do not meet the ownership requirements for qualifying status under the Public Utility Regulatory Policies act of 1978 (PURPA) and the Commission's regulations implementing PURPA. HII requests that the Commission revoke the QF status of those facilities.

Comment date: March 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. PSEG Energy Technologies Incorporated, Aquila Power Corporation, AES Power, Inc., Watt Works, L.L.C. and Stalwart Power Company

[Docket Nos. ER97–2176–008, ER95–216–020, ER94–890–020, ER97–2592–007 and ER97–3089–001]

Take notice that on February 2, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet under Records Information Management System (RIMS) for viewing and downloading.

7. Environmental Resources Trust, Inc., Nine Energy Services, LLC, Entergy Power Marketing Corp., Enserch Energy Services, Inc., CNG Power Services Corporation, DTE-Co Energy L.L.C., Duke/Louis Dreyfus, L.L.C., Bonneville Fuels Management Corporation, AEP Power Marketing, Inc., Niagara Mohawk Energy Marketing, Inc., TransAlta Energy Marketing Corp., TransAlta Energy Marketing (U.S.) Inc., and People's Electric Corporation

[Docket Nos. ER98–3233–002, ER98–1915–003, ER95–1615–016, ER98–895–004, ER94–1554–019, ER97–3835–005, ER96–108–016, ER96–659–012, ER96–2495–009, ER96–2525–001, ER96–1316–011, ER98–3184–002, and ER98–3719–001]

Take notice that on February 1, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet under Records Information Management System (RIMS) for viewing and downloading.

8. StratErgy, Inc.

[Docket No. ER99–1410–000]

Take notice that on February 5, 1999, StratErgy, Inc., tendered for filing an amendment to the petition filed on January 21, 1999, StratErgy, Inc., a power marketer organized under the laws of Massachusetts, has petitioned the Commission for acceptance of its market-based rate schedule, waiver of the 60-day notice requirement, and waiver of certain requirements under Subparts B and C of Part 35 of the Commission's Regulations.

Comment date: February 25, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Idaho Power Company, South Carolina Electric and Gas Company, and Consolidated Water Power Company

[Docket Nos. ER99–1671–000, ER99–1688–000, and ER99–1689–000]

Take notice that on February 2, 1999, the above-referenced public utilities filed their quarterly transaction reports for the quarter ending December 31, 1998.

Comment date: February 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Midwest Energy, Inc.

[Docket No. ER99–1707–000]

Take notice that on February 3, 1999, the above-referenced public utility filed its quarterly transaction reports for the quarters ending September 30, 1998 and December 31, 1998.

Comment date: February 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Southern Indiana Gas and Electric Company

[Docket No. ER99–1709–000]

Take notice that on February 4, 1999, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing a service agreement for Firm Point-to-Point Transmission Service under Part II of its Transmission Services Tariff with NorAm Energy Services, Inc.

Copies of the filing were served upon each of the parties to each service agreement.

SIGECO requests waiver of the 60-day prior notice requirement to allow the service agreement to become effective as of January 7, 1999.

Comment date: February 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Wisconsin Power & Light Company

[Docket No. ER99–1710–000]

Take notice that on February 4, 1999, Wisconsin Power & Light Company (WPL), tendered for filing a Certificate of Cancellation, terminating Rate Schedule FERC No. 135.

WPL's customer has canceled the existing power supply agreement with WPL in accordance with its terms. Service from a new provider will begin on March 1, 1999.

WPL requests an effective date of March 1, 1999, for the cancellation.

WPL indicates that copies of the filing have been provided to the customer and to the Public Service Commission of Wisconsin.

Comment date: February 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of New Mexico

[Docket No. ER99–1711–000]

Take notice that on February 4, 1999, Public Service Company of New Mexico (PNM), tendered for filing Notice of Termination of the Amended and Restated Contract for Electric Service between PNM and Texas-New Mexico Power Company (PNM Rate Schedule FERC No. 77), dated April 29, 1988.

Termination of that Contract is to be effective as of January 1, 1999. PNM requests waiver of the applicable notice requirements.

PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been served upon Texas-New Mexico Power Company and the New Mexico Public Regulation Commission.

Comment date: February 24 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Somerset Power LLC

[Docket No. ER99–1712–000]

Take notice that on February 4, 1999, Somerset Power LLC, tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1, to be effective upon closing of its purchase of the Somerset Generating Station, which is scheduled to occur on or before March 31, 1999.

Somerset Power LLC intends to sell electric power and ancillary services at wholesale. In transactions where Somerset Power LLC sells electric energy or ancillary services, it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Rate Schedule No. 1, provides for the sale of energy, capacity and ancillary services at agreed prices.

Comment date: February 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Bangor Hydro-Electric Company

[Docket No. ER99–1713–000]

Take notice that on February 4, 1999, Bangor Hydro-Electric Company (Bangor), tendered for filing a service agreement for the assignment or transfer of transmission rights with Penobscot Hydro, L.L.C.

Bangor requests waiver of the Commission's 60-day notice requirements to that the Service Agreement can become effective on January 25, 1999.

Comment date: February 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Lake Road Generating Company, L.P.

[Docket No. ER99–1714–000]

Take notice that on February 4, 1999, Lake Road Generating Company, L.P. (Lake Road), tendered for filing, pursuant to Section 205 of the Federal Power Act, and Part 35 of the Commission's Regulations, a Petition for authorization to make sales of capacity and energy, including certain ancillary services, at market-based rates. Lake Road plans to construct a nominally rated 792 MW natural gas-fired, combined cycle power plant in the Town of Killingly, Connecticut. Three 345 kV interconnection lines will

extend approximately 100–750 feet from the step-up transformers adjacent to the three generators comprising the project to a switchyard to be built at the project site. At the switchyard, the project will interconnect with Northeast Utilities' existing 345 kV Card Street—Sherman Road transmission line #347.

Comment date: February 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Central Vermont Public Service Corporation

[Docket No. ER99–1715–000]

Take notice that on February 4, 1999, Central Vermont Public Service Corporation (Central Vermont), tendered for filing an unexecuted Service Agreement with PG&E Energy Trading under its FERC Electric Tariff No. 5. The tariff provides for the sale by Central Vermont of capacity, energy, and/or resold transmission capacity at or below Central Vermont's fully allocated costs.

Central Vermont requests waiver of the Commission's Regulations to permit the service agreement to become effective on February 5, 1999.

Comment date: February 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. New York State Electric & Gas Corporation

[Docket No. ER99–1716–000]

Take notice that on February 4, 1999, New York State Electric & Gas Corporation (NYSEG), tendered for filing Service Agreements between NYSEG and Select Energy, Inc., Enron Power Marketing, Avista Energy, Inc., and PP&L Energy Plus Co., (Customer). These Service Agreements specify that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed July 9, 1997 and effective on November 27, 1997, in Docket No. ER97–2353–000].

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of February 1, 1999, for the Service Agreements.

NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: February 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Puget Sound Energy, Inc.

[Docket No. ER99–1717–000]

Take notice that on February 4, 1999, Puget Sound Energy, Inc. (Puget Sound), tendered for filing a proposed amendment dated as of January 17, 1997, to Rate Schedule FERC No. 82. Puget Sound states that the amendment provides for an exchange in kind of electric transmission services between Puget Sound and the United States Department of Navy (the Navy).

A copy of the filing was served upon the Navy.

Comment date: February 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Puget Sound Energy, Inc.

[Docket No. ER99–1718–000]

Take notice that on February 4, 1999, Puget Sound Energy, Inc., tendered for filing an executed Amendment No. 1, to Agreement Providing for Termination of Agreement for Assignment and for Exchange of Power (the Amendment) with Public Utility District No. 1, of Grays Harbor County, Washington (District).

A copy of the filing was served on the District.

Comment date: February 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. The Legacy Group, Inc.

[Docket No. ER99–1719–000]

Take notice that on February 4, 1999, The Legacy Group, Inc. (Legacy), petitioned the Commission for acceptance of Legacy's Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Legacy intends to engage in wholesale electric power and energy purchases and sales as a marketer. Legacy is not in the business of generating or transmitting electric power.

Comment date: February 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Central Vermont Public Service Corporation

[Docket No. ER99–1720–000]

Take notice that on February 4, 1999, Central Vermont Public Service Corporation (Central Vermont), tendered for filing an unexecuted Service Agreement with PG&E Energy Trading and an unexecuted Service Agreement with Sithe Power Marketing, Inc., under its FERC Electric Tariff No. 8 (market-based rates).

Central Vermont respectfully requests that the Commission waive its 60-day notice requirement to permit each Service Agreement to become effective February 5, 1999.

Comment date: February 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Alliant Services Company

[Docket No. ER99–1721–000]

Take notice that on February 4, 1999, Alliant Services Company (Alliant), tendered for filing executed Service Agreements for firm and Non-Firm Point-to-Point Transmission Service, establishing Southwestern Public Service Company as a point-to-point Transmission Customer under the terms of the Alliant Services Company transmission tariff.

Alliant Services Company requests an effective date of January 11, 1999, and accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment date: February 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Williams Energy Marketing & Trading Company

[Docket No. ER99–1722–000]

Take notice that on February 4, 1999, Williams Energy Marketing & Trading Company (WEM&T), (formerly Williams Services Company), tendered for filling Notice of Succession under Section 35.16 of the Commission's Regulations under the Federal Power Act to succeed to Electric Rate Schedule No. 1, as revised, of Williams Energy Services Company (WESCO), effective November 12, 1998, as well as all other rate schedules filed by any party to which WESCO has been a party.

A copy of the notice is on filed with the Secretary and open for inspection.

Comment date: February 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Florida Power Corporation

[Docket No. ER99–1723–000]

Take notice that on February 4, 1999, Florida Power Corporation (FPC), tendered for filing a revised Exhibit C to the Agreement between Florida Power Corporation and Seminole Electric Cooperative, Inc., for Supplemental Resale Service, Transmission/ Distribution service and Load Following Service.

A copy of this filing has been sent to Seminole Electric Cooperative.

Comment date: February 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Duke Energy Morro Bay, LLC, Duke Energy Moss Landing, LLC

[Docket No. ER99–1745–000, Docket No. ER99–1746–000]

Take notice that on February 1, 1999, the above-referenced public utilities filed their quarterly transaction reports for the quarter ending December 31, 1998.

Comment date: February 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Wisconsin Public Service Corporation

[Docket No. ER99–1754–000]

Take notice that on February 4, 1999, Wisconsin Public Service Corporation (WPSC), tendered for filing executed Service Agreements with New Energy Ventures, Inc., and Manitowoc Public Utilities, a request for withdrawal of previously filed service agreements and Attachments E and I, providing for transmission service under FERC Electric Tariff, Volume No. 1.

Comment date: February 24, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 99–3737 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF99–5191–000, et al.]

Western Area Power Administration, et al.; Electric Rate and Corporate Regulation Filings

February 8, 1999.

Take notice that the following filings have been made with the Commission:

1. Western Area Power Administration

[Docket No. EF99–5191–000]

Take notice that on February 1, 1999, the Acting Deputy Secretary of the Department of Energy, by Rate Order No. WAPA–76, did confirm and approve on an interim basis, to be effective on January 1, 1999, the Western Area Power Administration's Rate Schedule INT–FT3 for the Pacific Northwest-Pacific Southwest Intertie Project (AC Intertie) 230/345-kV transmission system. The AC Intertie Rate Schedule INT–FT2 as it pertains to 230/345-kV firm transmission service is terminated.

The rate in Rate Schedule INT–FT3 will be in effect pending the Federal Energy Regulatory Commission's (FERC) approval of these or of substitute rates on a final basis, ending December 31, 2003.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. LG&E Energy Marketing Inc., WPS-Power Development, Inc., Northern/AES Energy, LLC, IGI Resources, Inc., PG&E Power Services Company, Pacific Energy & Development Corporation, Quantum Energy Resources, Inc., The Montana Power Trading and Marketing Company, PG&E Energy Trading—Power, Enron Power Marketing, Inc., El Paso Power Services Company, H.Q. Energy Services (U.S.) Inc., Energy International Power Marketing Corporation

[Docket Nos. ER94–1188–026, ER96–1088–022, ER98–445–004, ER95–1034–014, ER94–1394–019, ER98–1824–004, ER96–947–001, ER97–399–009, ER95–1625–018, ER94–24–028, ER95–428–017, ER97–851–007, ER98–2059–003]

Take notice that on February 1, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet under Records Information Management System (RIMS) for viewing and downloading.

3. Energy Services, Inc., Panda Power Corporation, Northwest Power Marketing Company, Quantum Energy Resources, People's Electric Corporation, Columbia Energy Services Corp., Heartland Energy Services, Inc., Enerserve, L.C., Statoil Energy Trading, Inc., Statoil Energy Services, Inc., Clinton Energy Management Services, Inc., Sithe Power Marketing, Inc., Alliance Strategies, Inc., Fortistar Power Marketing LLC

[Docket Nos. ER95–1021–014, ER98–447–004, ER96–688–011, ER96–947–011, ER98–3719–002, ER97–3667–005, ER94–108–017, ER96–182–013, ER94–964–021, ER97–4381–001, ER98–3934–002, ER98–107–005, ER95–1381–011, ER98–3393–001]

Take notice that on February 1, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet under Records Information Management System (RIMS) for viewing and downloading.

4. Montaup Electric Company

[Docket No. ER98–4603–000]

Take notice that on February 2, 1999, Montaup Electric Company (Montaup), tendered for filing revisions to the compliance filing that it filed on September 21, 1998. The revisions modify three provisions of Montaup's Open Access Transmission Tariff.

Comment date: February 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. El Dorado Energy, LLC, Carolina Power & Light Company, Arizona Public Service Company, Central Vermont Public Service Corporation, American Electric Power Service Corporation, Orange and Rockland Utilities, Inc., Sithe Mistic LLC, et al., MidAmerican Energy Company, Old Dominion Electric Cooperative, Duke Energy Oakland, LLC, Duke Energy Moss Landing, LLC, Duke Energy Morro Bay, LLC, Duke Energy Oakland, LLC, Millennium Power Partners, L.P., Logan Generating Company, L.P., Portland General Electric Company, Kincaid Generation L.L.C., NIPSCO Energy Services, Inc.

[Docket Nos. ER99–1639–000, ER99–1672–000, ER99–1673–000, ER99–1677–000, ER99–1674–000, ER99–1676–000, ER99–1675–000, ER99–1678–000, ER99–1679–000, ER99–1680–000, ER99–1681–000, ER99–1682–000, ER99–1683–000, ER99–1684–000, ER99–1685–000, ER99–1686–000, ER99–1687–000, ER99–1691–000]

Take notice that on February 1, 1999 the above-referenced public utilities filed their quarterly transaction reports for the quarter ending December 31, 1998.

Comment date: February 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin)

[Docket No. ER99–1664–000]

Take notice that on February 2, 1999, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly NSP), tendered for filing a Firm Point-to-Point Transmission Service Agreement between NSP and city of Fairfax, MN (Fairfax Municipal Power).

NSP requests that the Commission accept both the agreements effective January 1, 1999, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: February 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. PECO Energy Company

[Docket No. ER99–1665–000]

Take notice that on February 2, 1999, PECO Energy Company (PECO) tendered for filing a Service Agreement dated October 5, 1998 with Texas Utility Electric Company (TU Electric) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds TU Electric as a customer under the Tariff.

PECO requests an effective date of February 1, 1999, for the Service Agreement.

PECO states that copies of this filing have been supplied to TU Electric and to the Pennsylvania Public Utility Commission.

Comment date: February 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Cinergy Services, Inc.

[Docket No. ER99–1666–000]

Take notice that February 2, 1999, Cinergy Services, Inc. (Cinergy) and El Paso Services Company (El Paso), formerly named El Paso Energy Marketing Company a predecessor company named Heath Petra Resources, Inc., tendered for filing a request of cancellation of Service Agreement No. 113, under Cinergy Operating Companies, FERC Electric Power Tariff, First Revised Volume No. 4.

Cinergy is requesting a cancellation date of December 1, 1998.

Comment date: February 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Cinergy Services, Inc., El Paso Power Services Company

[Docket No. ER99–1667–000]

Take notice that Cinergy Services, Inc. (Cinergy) and El Paso Power Services Company (El Paso), formerly named El Paso Energy Marketing Company with a predecessor company named Heath Petra Resources, Inc. (Heath), on February 1, 1999, are requesting cancellations of Cinergy's Interchange Agreement Rate Schedule No. 42, and Heath's Interchange Agreement Rate Schedule No. 2.

Cinergy and El Paso requests an effective date of December 1, 1998.

Comment date: February 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Inc., El Paso Power Services Company

[Docket No. ER99–1668–000]

Take notice that February 2, 1999, Cinergy Services, Inc. (Cinergy) and El Paso Power Services Company (El Paso), formerly named El Paso Energy Marketing Company with a predecessor company named Eastex Power Marketing, Inc. (Eastex), are requesting via a Notice of Assignment that El Paso will replace Eastex of Cinergy's Interchange Agreement Rate Schedule No. 37, and Eastex's Interchange Agreement Rate Schedule No. 12.

Cinergy and El Paso requests an effective date of December 1, 1998.

Comment date: February 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Soyland Power Cooperative, Inc.

[Docket No. ER99–1669–000]

Take notice that on February 2, 1999, Soyland Power Cooperative, Inc. (Soyland), tendered for filing with the Federal Energy Regulatory Commission (the Commission) a notice of cancellation of its all-requirements service contract with Illinois Valley Electric Cooperative, Inc. (Illinois Valley). Soyland states that Illinois Valley has withdrawn from membership in Soyland, and Soyland will no longer provide all-requirements electric service to Illinois Valley.

Soyland requests an effective date of February 2, 1999 for the notice of cancellation. Accordingly, Soyland request waiver of the Commission's regulations. Soyland states that a copy of the filing has been served on Illinois Valley.

Comment date: February 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Soyland Power Cooperative, Inc.

[Docket No. ER99–1670–000]

Take notice that on February 2, 1999, Soyland Power Cooperative, Inc. (Soyland), tendered for filing with the Federal Energy Regulatory Commission (the Commission) a notice of cancellation of its all-requirements service contract with Monroe County Electric Co-Operative, Inc., (Monroe). Soyland states that Monroe has withdrawn from membership in Soyland, and Soyland will no longer provide all-requirements electric service to Monroe.

Soyland requests an effective date of February 2, 1999, for the notice of cancellation. Accordingly, Soyland request waiver of the Commission's regulations.

Soyland states that a copy of the filing has been served on Monroe.

Comment date: February 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Commonwealth Edison Company

[Docket No. ER99–1693–000]

Take notice that on February 3, 1999, Commonwealth Edison Company (ComEd), tendered for filing a service agreement establishing Dayton Power and Light (DPL) as a customer under ComEd's FERC Electric Market Based-Rate Schedule for power sales.

ComEd requests an effective date of January 4, 1999, for the DPL Service Agreement to coincide with the first day of service to DPL under this Service

Agreement. Accordingly, ComEd seeks waiver of the Commission's notice requirements.

A copy of the filing was served on DPL.

Comment date: February 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. California Independent System Corporation

[Docket No. ER99–1694–000]

Take notice that on February 3, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between Big Creek Water Works, Ltd. (Big Creek), and the ISO for acceptance by the Commission.

The ISO states that this filing has been served on Big Creek and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective as of January 25, 1999.

Comment date: February 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Elwood Energy LLC

[Docket No. ER99–1695–000]

Take notice that on February 3, 1999, Elwood Energy LLC tendered for filing its proposed FERC Electric Rate Schedule No. 1, and requests an Order Accepting Rates for Filing, and certain waivers of the Commission Regulations.

Comment date: February 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Select Energy, Inc.

[Docket No. ER99–1696–000]

Take notice that on February 3, 1999, Select Energy, Inc. (Select), tendered for filing an amendment to its Market-Based Rate Tariff that authorizes Select to exchange capacity with its affiliated public utilities.

Copies of this filing have been served on all customers signed up for service under Select FERC Rate Schedule No. 1.

Comment date: February 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Detroit Edison Company

[Docket No. ER99–1697–000]

Take notice that on February 3, 1999, the Detroit Edison Company (Detroit Edison), tendered for filing Service Agreements (the Service Agreement) for Short Term Firm and Non-Firm Point-to-Point Transmission Service under the Open Access Transmission Tariff of Detroit Edison, FERC Electric Tariff No. 1, between Detroit Edison and Cargill-Alliant, LLC dated as of January 5, 1999. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made affective as rate schedules as of January 5, 1999.

Comment date: February 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. The Detroit Edison Company

[Docket No. ER99–1698–000]

Take notice that on February 3, 1999, the Detroit Edison Company (Detroit Edison), tendered for filing Service Agreements (the Service Agreement) for Long Term Firm Point-to-Point Transmission Service under the Open Access Transmission Tariff of Detroit Edison, FERC Electric Tariff No. 1, between Detroit Edison and Detroit Edison Merchant Operations dated as of December 23, 1998. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made affective as rate schedules as of January 1, 1999.

Comment date: February 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Detroit Edison Company

[Docket No. ER99–1699–000]

Take notice that on February 3, 1999, the Detroit Edison Company (Detroit Edison), tendered for filing Service Agreements (the Service Agreement) for Short Term Firm and Non-Firm Point-to-Point Transmission Service under the Joint Open Access Transmission Tariff of Consumers Energy Company and Detroit Edison, FERC Electric Tariff No. 1, between Detroit Edison and Cargill-Alliant, LLC dated as of January 5, 1999. The parties have not engaged in any transactions under the Service Agreements prior to thirty days to this filing.

Detroit Edison requests that the Service Agreements be made affective as rate schedules as of January 5, 1999.

Comment date: February 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Ohio Edison Company, Pennsylvania Power Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company

[Docket No. ER99–1700–000]

Take notice that on February 3, 1999, Ohio Edison Company, Pennsylvania Power Company, the Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively, the FirstEnergy Operating Companies) tendered for filing a Service Agreement under which they will take Network Integration Transmission Service under their Open Access Transmission Tariff (Tariff) on file with the Commission and a corresponding Network Operating Agreement governing certain operations and procedures relating to that service.

The FirstEnergy Operating Companies request that these agreements be made effective as of the date the Commission issues an order approving the FirstEnergy Operating Companies' September 25, 1998 Offer of Settlement in Docket Nos. ER97–412–000, ER97-413–000 and ER98–1932–000, which has been certified to the Commission by the presiding administrative law judge in those proceedings and awaits Commission approval. The FirstEnergy Operating Companies also filed a revised Index of Customers to be incorporated into the Tariff.

The FirstEnergy Operating Companies state that a copy of their filing has been served on the Public Utilities Commission of Ohio and the Pennsylvania Public Utility Commission.

Comment date: February 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Minnesota Power, Inc.

[Docket No. ER99–1701–000]

Take notice that on February 3, 1999, Minnesota Power, Inc., tendered for filing signed Non-Firm and Short-Term Firm Point-to-Point Transmission Service Agreements with Rainbow Energy Marketing Corp., under its Firm and Non-Firm Point-to-Point Transmission Service to satisfy its filing requirements under this tariff.

Comment date: February 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Minnesota Power, Inc.

[Docket No. ER99–1702–000]

Take notice that on February 3, 1999, Minnesota Power, Inc., tendered for filing signed Non-Firm and Short-term Firm Point-to-Point Transmission Service Agreements with Avista Energy under its Firm and Non-Firm Point-to-Point Transmission Service to satisfy its filing requirements under this tariff.

Comment date: February 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Virginia Electric and Power Company

[Docket No. ER99–1703–000]

Take notice that on February 3, 1999, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service with Ameren Services Company (Transmission Customer) under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreement, Virginia Power will provide Non-Firm Point-to-Point Transmission Service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of the date of February 3, 1999, the date of filing of the Service Agreement.

Copies of the filing were served upon Ameren Services Company, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: February 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Virginia Electric and Power Company

[Docket No. ER99–1704–000]

Take notice that on February 3, 1999, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service with Ameren Services Company (Transmission Customer) under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreement, Virginia Power will provide Firm Point-to-Point Transmission Service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of the date of February 3, 1999, the date of filing of the Service Agreement.

Copies of the filing were served upon Ameren Services Company, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: February 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Cinergy Services, Inc.

[Docket No. ER99–1705–000]

Take notice that on February 3, 1999, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and Cleco Corp. (Cleco).

Cinergy and Cleco are requesting an effective date of January 4, 1999.

Comment date: February 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Cinergy Services, Inc.

[Docket No. ER99–1706–000]

Take notice that on February 3, 1999, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and Cleco Corp. (Cleco).

Cinergy and Cleco are requesting an effective date of January 4, 1999.

Comment date: February 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Oklahoma Gas and Electric Company

[Docket No. ER99–1708–000]

Take notice that on February 2, 1999, Oklahoma Gas and Electric Company (OG&E), filed to cancel its Supplemental Power Sales Agreement with the Oklahoma Municipal Power Authority, which has been designated OG&E Rate Schedule FERC No. 136, pursuant to Section 35.15 of the Federal Energy Regulatory Commission's (Commission) Regulations.

OG&E requests acceptance of its notice and waiver of the 60-day notice requirement to permit the cancellation to become effective February 1, 1999, or such later date as authorized by the Commission.

This filing has been served upon the affected purchaser.

Comment date: February 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 99–3738 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

February 10, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: New Major License

b. Project No.: 2060–005

c. Date filed: January 28, 1999

d. Applicant: Niagara Mohawk Power Corporation

e. Name of Project: Carry Falls

f. Location: On the Raquette River, at river mile 68 above the confluence with the St. Lawrence River, in the town of Colton, St. Lawrence County, New York. The project would not utilize federal lands.

g. Filed Pursuant to: Federal Power Act, 16 USC 791(a)–825(r).

h. Applicant contact: Mr. Jerry L. Sabattis, P.E., Licensing Coordinator, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202, (315) 428–5582.

i. FERC Contact: Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, charles.raabe@ferc.fed.us, or telephone (202) 219–2811.

j. Deadline for filing additional study requests: March 29, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Status of environmental analysis: This application is not ready for environmental analysis at this time.

l. Description of the Project: the project consists of: (1) an 826-foot-long dam comprising: (a) a 568-foot-long and 76-foot-high concrete gravity spillway with a crest elevation of 1,386 feet; and (b) a 258-foot-long and 63-foot-high concrete gated non-overflow spillway with two 14.5-foot by 27-foot taintor regulating gates, two 10-foot-square low-level sluice gates, and an intake structure with two 15-foot-square openings for future power installation; (2) five earth dikes totaling 2,500 feet in length, with lengths varying from 320 feet to 1,015 feet, maximum heights varying from 12 feet to 31 feet, each with a crest width of 12 feet at elevation 1,392 feet; (3) a 7-mile-long reservoir having a 3,000-acre surface area and a 107, 478-acre-foot usable storage capacity at normal pool elevation 1,385 feet USGS; and (4) appurtenant facilities. The project has no installed generating capacity.

m. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20246, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h. above.

n. With this notice, we are initiating consultation with the State Historic Preservation Officer as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

o. Under Section 4.32(b)(7) of the Commission's regulations (18 CFR 4.32(b)(7)), if any resource agency, Indian Tribe, or person believes that the applicant should conduct an additional scientific study to form an adequate factual basis for a complete analysis of the application on its merits, they must file a request for the study with the Commission, not later than 60 days after the date the application is filed, and must serve a copy of the request on the applicant.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3812 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

February 10, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: New Major License.

b. Project No.: 2084–020.

c. Date filed: January 28, 1999.

d. Applicant: Niagara Mohawk Power Corporation.

e. Name of Project: Upper Raquette River.

f. Location: On the Raquette River, between river miles 52 and 68 above the confluence with the St. Lawrence River, in the towns of Colton and Parishville, St. Lawrence County, New York. The project would not utilize federal lands.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: Mr. Jerry L. Sabattis, P.E., Licensing Coordinator, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202, (315) 428–5561.

i. FERC Contact: Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, charles.raabe@ferc.fed.us, or telephone (202) 219–2811.

j. Deadline for filing additional study requests: March 29, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulation Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Status of environmental analysis: This application is not ready for environmental analysis at this time.

l. Description of the Project: The project consists of five developments:

(1) The Stark Falls Development comprising: (a) A 35-foot-high concrete gravity-type dam with a concrete overflow section and a control gate section flanked by earth dikes; (b) six earth saddle dikes; (c) a 1.5-mile-long reservoir at normal pool elevation 1,355.0 feet USGS; (d) an intake; (e) a penstock; (f) a powerhouse containing a 23,872-kW generating unit; and (g) appurtenant facilities;

(2) The Blake Falls Development comprising: (a) A 75-foot-high concrete gravity-type dam with a concrete overflow section (b) an earth dike; (c) a 5.5-mile-long reservoir at normal pool elevation 1,250.5 feet USGS; (d) an intake; (e) a penstock; (f) a powerhouse containing a 13,913-kW generating unit; and (g) appurtenant facilities;

(3) The Rainbow Falls Development comprising: (a) A 75-foot-high concrete gravity-type dam with a concrete overflow section flanked by a 1,600-foot-long earth dike; (b) an earth saddle dike; (c) a 3.5-mile-long reservoir at normal pool elevation 1,181.5 feet USGS; (d) an intake; (e) a penstock; (f) a powerhouse containing a 22,828-kW generating unit; and (g) appurtenant facilities;

(4) The Five Falls Development comprising: (a) A 50-foot-high concrete gravity-type dam with a concrete overflow section flanked at each end by an earth dike; (b) a 1.0-mile-long reservoir at normal pool elevation 1,077.0 feet USGS; (c) an intake; (d) a 1,200-foot-long penstock; (e) a powerhouse containing a 22,828-kW generating unit; and (f) appurtenant facilities; and

(5) The South Colton Development comprising: (a) A 45-foot-high concrete gravity-type dam with a concrete overflow section and earth abutments; (b) a 1.5-mile-long reservoir at normal pool elevation 973.5 feet USGS; (c) an intake; (d) a 1,300-foot-long penstock; (e) a powerhouse containing an 18,948-kW generating unit; and (f) appurtenant facilities. The project has a total installed capacity of 102.389-kW

m. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20246, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h. above.

n. With this notice, we are initiating consultation with the State Historic Preservation Officer as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

o. Under Section 4.32(b)(7) of the Commission's regulations (18 CFR 4.32(b)(7)), if any resource agency. Indian Tribe, or person believes that the applicant should conduct an additional scientific study to form an adequate factual basis for a complete analysis of the application on its merits, they must file a request for the study with the Commission, not later than 60 days after the date the application is filed, and must serve a copy of the request on the applicant.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3813 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

City of Kaukauna Electric and Water Department; Notice Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

February 10, 1999.

The license for the Little Chute Hydroelectric Project, FERC No. 2588, located on the Fox River in Outagamie County, near the Village of Combined Locks, Wisconsin, will expire on July 31, 2000. On July 10, 1998, an application for a new major license was filed. The following is an approximate schedule and procedures that will be followed in processing the application:

Date	Action
December 8, 1998	Commission issued public notice of the accepted application establishing dates for filing motions to intervene and protests.
December 11, 1998	Commission notified applicant that its application has been accepted and specifies the need for additional information.
March 31, 1999	Commission's deadline for applicant for filing a final amendment, if any, to its application.
July 31, 1999	Commission notifies all parties and agencies that the application is ready for environmental analysis.

Upon receipt of all additional information and the information filed in response to the public notice of the acceptance of the application, the Commission will evaluate the application in accordance with applicable statutory requirements and take appropriate action on the application.

Any questions concerning this notice should be directed to Steve Kartalia at (202) 219–2942.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3814 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a New License

February 10, 1999.

a. Type of Filing: Notice of Intent to File An Application for a New License.

b. Project No.: 700.

c. Date Filed: January 29, 1999.

d. Submitted By: Newton Falls Inc.—current licensee.

e. Name of Project: Newton Falls Project.

f. Location; On the Oswegatchie River near the Town of Clifton, St. Lawrence County, New York.

g. Filed Pursuant to: Section 15 of the Federal Power Act.

h. Licensee Contact: Appleton Papers Inc., Newton Falls Mill, 875 County Route 60, P.O. Box 253, Newton Falls, NY 13666–0253, Fred. M. Gillespie, Jr., (315) 848–3321.

i. FERC Contact: Any questions on this notice should be addressed to Tom Dean, E-mail address, thomas.dean@ferc.fed.us, or telephone (202) 219–2778.

j. Effective date of current license: April 1, 1962.

k. Expiration date of current license: January 31, 2004.

l. Description of the Project: The project consists of the following two developments:

The Upper Development consists of the following existing facilities: (1) a 600-foot-long, 40-foot-high concrete gravity dam with 3-foot-high flashboards; (2) a 650-acre reservoir at elevation 1,424.0 feet msl; (3) a 9-foot-diameter, 1,200-foot-long penstock; (4) a 150,000-gallon surge tank; (5) a powerhouse containing three generating units with a total installed capacity of 1,540 KW; (6) a 35-foot-wide, 250-foot-long tailrace; (7) three 375-foot-long, 2.3-kV transmission lines; and (8) other appurtenances.

The Lower Development consists of the following existing facilities: (1) a 350-foot-long, 25-foot-high concrete gravity dam with 3-foot-high flashboards; (2) a 9-acre reservoir at elevation 1,376.5 feet msl; (3) a 20-foot-wide, 15-foot-high intake structure; (4) a powerhouse containing a single generating unit with an installed capacity of 680 kW; (5) a 30-foot-wide, 200-foot-long tailrace; (6) a 2,200-foot-long, 2.3-kV transmission lines; and (7) other appurtenances.

m. Each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by January 31, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3815 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

February 10, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. Type of Application: Preliminary Permit.

b. Project No.: P–11621–000.

c. Date filed: October 13, 1998.

d. Applicant: Edwards Energy Systems, Inc.

e. Name of Project: Columbia Hydropower Project.

f. Location: At the Corps of Engineers George W. Andrews Lock and Dam, on the Chattahoochee River, near the Town of Columbia, Houston County, Alabama.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Dean Edwards, Edwards Energy Systems, Inc., 5400 Downing Street, Dover, Florida 33527, (813) 659–1007.

i. FERC Contact: Any questions on this notice should be addressed to Michael Spencer, E-mail address at Spencer.Michael@FERC.fed.us, or telephone (202) 219–2846.

j. Comment Date: 60 days from the issuance date of this notice.

k. Description of Project: The proposed project would utilize the Corps of Engineer's George W. Andrews Lock and Dam and consist of the following: (1) six, 8-foot-diameter, penstocks one for each turbine; (2) a powerhouse, integral with the west end of the dam, containing six generating units with a combined capacity of 7.0 MW and an estimated average annual generation of 39.32 Gwh; and (3) a 7,800-foot-long transmission line.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 219–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3816 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

February 10, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. Type of Application: Preliminary Permit.

b. Project No. P–11640–000.

c. Dated filed: November 27, 1998.

d. Applicant: Universal Electric Power Corp.

e. Name of Project: Muskingum L&D #2 Project.

f. Location: At the Muskingum L&D #2, on the Muskingum River, near the Town of Devola, Washington County, Ohio.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Ronald Feltenberger, Universal Eclectic Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. FERC Contact: Any questions on this notice should be addressed to Michael Spencer, E-mail address at Spencer.Michael@FERC.fed.us, or telephone (202) 219–2846.

j. Comment Date: 60 days from the issuance date of this notice.

k. Description of Project: The proposed project would consist of the

following: (1) the existing 17.5-foot-high, 587-foot-long, timber crib dam; (2) the existing reservoir with a 301 acre surface area, and 3,024 acre-feet storage volume; (3) two 72-inch-diameter, 12-foot-long steel penstocks; (4) two powerhouses, each containing one generating unit with a combined total capacity of 2.0 MW and an estimated average annual generation of 12.0 Gwh; and (5) a 300-foot-long transmission line. The Muskingum L&D #2 is owned and operated by the Ohio Department of Natural Resources.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 219–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only with those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson Jr.,

Acting Secretary.

[FR Doc. 99–3817 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

February 10, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. Type of Application: Preliminary Permit.

b. Project No.: P–11645–000.

c. Date filed: December 7, 1998.

d. Applicant: Aces Wild Farm.

e. Name of Project: Parkers Forge Pond Project.

f. Location: On the Winnetuxet River, near the Town of Plympton, Plymouth County, Massachusetts.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Ms. Patricia Altaffer-Pina, Aces Wild Farm, 59 Parsonage Road, Plympton, Massachusetts 02367, (781) 585–3243.

i. FERC Contact: Any quest ions on this notice should be addressed to Michael Spencer, E-mail address at Spencer.Michael@FERC.fed.us, or telephone (202) 219–2846.

j. Comment Date: 60 days from the issuance date of this notice.

k. Description of Project: The proposed project would consist of the following: (1) An existing 13-foot-high, 150-foot-long rockfill dam; (2) a pond with a surface area of 5 acres and a gross storage of 1.6 million cubic feet; (3) a powerhouse containing two generating units with a combined capacity of 5,000 kW and an estimated average annual generation of 26 Gwh; (4) a concrete pad tailrace from the powerhouse to the Winnetuxet River; and (5) a 1,600-foot-long transmission line. The dam is owned by Anne Collins, at address 60 Parsonage Road, P.O. Box 134, Plympton, MA 02367.

l. Locations of the application: A copy of the application is available for

inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 219–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

m. This notice also consists of the following standards paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether the proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

c. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3818 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

February 10, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Preliminary Permit.

b. Project No.: P–11655–000.

c. Date Filed: January 4, 1999.

d. Applicant: Savannah River Resource Enhancement, LLC.

e. Name of Project: New Savannah Bluff.

f. Location: On the Savannah River in Aiken County, South Carolina and Richmond County, Georgia, partially utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: Mr. Charles B. Mierek, 5250 Clifton-Glendale Road, Spartanburg, SC 29307, (864) 579–4405.

i. FERC Contact: Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219—2811.

j. Deadline Date: 60 days from the issuance date of this notice.

k. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' New Savannah Bluff Dam and would consist of: (1) a new 1,500-foot-long headrace canal; (2) a new 140-foot-wide, 160-foot-long concrete powerhouse containing two generating units with a total installed capacity of 7,200-kW; (3) a new 50-foot-wide taintor gate; (4) a new 175-foot-wide tailrace canal; (5) a 4-mile-long, 13.8-kV transmission line and a 4-mile-long, 46-kV transmission line; and (6) appurtenant facilities.

Applicant estimates that the average annual generation would be 45 MWh and that the cost of the studies to be performed under the terms of the permit would be $500,000. Project energy would be sold to an electric utility in the southeast.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222

for assistance. A copy is also available for inspection and reproduction at the address in item h above.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary period would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–3819 Filed 2–16–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6301–9]

Agency Information Collection Activities: Submission for OMB review; Comment Request; Servicing of Motor Vehicle Air Conditioners

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Servicing of Motor Vehicle Air Conditioners, OMB control number 2060–0247, ICR number 1617.03, expiring 4/30/99. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 19, 1999.

FOR FURTHER INFORMATION OR A COPY: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1617.03.

SUPPLEMENTARY INFORMATION:

Title: Servicing of Motor Vehicle Air Conditioners, OMB Control No. 2060–0247, EPA ICR No. 1617.03, expiring 4/30/99. This is a request for extension of a currently approved collection.

Abstract: In 1992, EPA developed regulations under Section 609 of the Clean Air Act Amendments of 1990 (the Act) for the recycling of chlorofluorocarbons in motor vehicle air conditioners (MVACs). The regulations were published in 57 FR 31240, and are codified at 40 CFR Subpart B (Section 82.30 *et seq.*). The regulations establish standards and requirements for the servicing of MVACs that use any refrigerant other than CFC–12. The information requested for all entities that service motor vehicle air conditioning is required by Section 609(d) of the Act. Proposed automotive technician certification programs are required to be approved by EPA in Section 609(d)(4). Section 609(b)(2)(A) requires the approval of independent laboratories by EPA. The submission of data for EPA determination of substantially identical equipment is addressed by Section 609(B)(2)(B). The recordkeeping requirements for the

motor vehicle recycling program are derived from Section 114 of the Act. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 9/4/98 (63 FR 47284); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average .13 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This reduction is due primarily to revisions in the estimates of the number of service facilities that must complete certifications for the equipment they have purchased. The Agency estimates that no more than 10,000 existing facilities, plus 4,000 new facilities, will need to complete the certification forms in any year. In addition, the reduction in burden hours from the original ICR is due in part to a revision in the estimate of the time it takes for a service facility manager to fill out the certification form. Compiling certification information and submitting it to EPA is estimated to be one half hour based on the limited nature of the information requested, and ease of obtaining the information. Compiling information from training programs and submitting it to EPA is estimated at two hours because of the brief nature of the document. The information can easily be incorporated into an establishment's mailing system. Compiling information on the independent laboratory equipment testing programs, requires independent laboratories to assemble test methodology, list equipment requirements, and review the SAE standards. EPA estimated one hour to compile the information. Substantially identical equipment submission of information is estimated at an hour to obtain information from a standard equipment owners manual. Regarding small containers purchased for resale only, EPA estimated one hour of industry time for recordkeeping requirements. To record names and addresses of off-site reclamation or recycling, EPA estimated five minutes based on the limited nature of the information requested and ease of obtaining the information. These estimates include the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Automotive Technicians.

Estimated Number of Respondents: 56,037.

Number of Responses: 70,037.

Estimated Total Annual Hour Burden: 8,882 hours.

Estimated Total Annualized Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1617.03 and OMB Control No. 2060–0247 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy Regulatory Information Division (2137) 401 M Street, SW, Washington, DC 20460

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW, Washington, DC 20503

Dated: February 10, 1999.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 99–3836 Filed 2–16–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PF–860; FRL–6060–1]

Rohm and Haas Company; Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–860, must be received on or before March 19, 1999.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Divison (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Joseph Tavano, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location/telephone and e-mail address: Rm. 214, 1921 Jefferson Davis Hwy, Arlington, VA, Crystal Mall 2 (CM #2), 703–305–6411, e-mail: tavano.joseph@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various raw food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports grantinig of the

petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice, as well as the public version, has been established for this notice of filing under docket control number PF–860 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (insert docket number) and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 4, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Below summaries of the pesticide petitions are printed. The summaries of the petitions were prepared by the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Rohm and Haas Company

1. 7F4815

EPA has received a revised pesticide petition (7F4815) from Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of tebufenozide [benzoic acid, 3,5-dimethyl-, 1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide] in or on the raw agricultural commodity crop grouping, pome fruit at 1.25 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of tebufenozide in plants (grapes, apples, rice and sugar beets) is adequately understood for the purpose of this tolerance. The metabolism of tebufenozide in all crops was similar and involves oxidation of the alkyl substituents of the aromatic rings primarily at the benzylic positions. The extent of metabolism and degree of oxidation are a function of time from application to harvest. In all crops, parent compound comprised the majority of the total dosage. None of the metabolites were in excess of 10% of the total dosage.

2. *Analytical method*. A validated high performance liquid chromatographic (HPLC) analytical method using ultraviolet (UV) detection is employed for measuring residues of tebufenozide in pome fruit. The method involves extraction by blending with solvents, purification of the extracts by liquid-liquid partitions and final purification of the residues using solid phase extraction column chromatography. The limit of quantitation of the method in pome fruit is 0.02 ppm.

3. *Magnitude of residues*. Magnitude of the residue studies were conducted in apples and pears using the maximum application rate of 0.308 pounds active ingredient per acre applied 6 times during the growing season. Fruit were collected 14 days after the last application and were analyzed for residues of tebufenozide. The average residue in apples from 12 trials was 0.52 ppm and the average residue detected in pears from 6 trials was 0.27 ppm. A tolerance of 1.25 ppm is proposed for residues of tebufenozide in or on pome fruit.

B. Toxicological Profile

1. *Acute toxicity*. Acute toxicity studies with technical grade: Oral LD_{50} in the rat is > 5 grams for males and females - Toxicity Category IV; dermal LD_{50} in the rat is = 5,000 milligram/kilogram (mg/kg) for males and females - Toxicity Category III; inhalation LD_{50} in the rat is > 4.5 mg/l - Toxicity Category III; primary eye irritation study in the rabbit is a non-irritant; primary skin irritation in the rabbit > 5 mg - Toxicity Category IV. Tebufenozide is not a sensitizer.

2. *Genotoxicty*. Several mutagenicity tests which were all negative. These include an Ames assay with and without metabolic activation, an *in vivo* cytogenetic assay in rat bone marrow cells, and *in vitro* chromosome aberration assay in Chinese hampster ovary (CHO) cells, a CHO/Hypoxanthine guanine phophoribosyl transferase (HGPRT) assay, a reverse mutation assay with *E. Coli*, and an unscheduled DNA synthesis (UDS) assay in rat hepatocytes.

3. *Reproductive and developmental toxicity*. In a prenatal developmental toxicity study in Sprague-Dawley rats 25/group Tebufenozide was administered on gestation days 6–15 by gavage in aqueous methyl cellulose at dose levels of 50, 250, or 1,000 mg/kg/day and a dose volume of 10 ml/kg. There was no evidence of maternal or developmental toxicity; the maternal and developmental toxicity no observed adverse effect level (NOAEL) was 1,000 mg/kg/day.

In a prenatal developmental toxicity study conducted in New Zealand white rabbits 20/group Tebufenozide was administered in 5 ml/kg of aqueous methyl cellulose at gavage doses of 50, 250, or 1,000 mg/kg/day on gestation days 7–19. No evidence of maternal or developmental toxicity was observed; the maternal and developmental toxicity NOAEL was 1,000 mg/kg/day.

In a 1993 2-generation reproduction study in Sprague-Dawley rats tebufenozide was administered at dietary concentrations of 0, 10, 150, or 1,000 ppm (0, 0.8, 11.5, or 154.8 mg/kg/day for males and 0, 0.9, 12.8, or 171.1 mg/kg/day for females). The parental systemic NOAEL was 10 ppm (0.8/0.9 mg/kg/day for males and females, respectively) and the lowest observed effect level (LOEL) was 150 ppm (11.5/12.8 mg/kg/day for males and females, respectively) based on decreased body weight, body weight gain, and food consumption in males, and increased incidence and/or severity of splenic pigmentation. In addition, there was an increased incidence and severity of extramedullary hematopoiesis at 2,000 ppm. The reproductive NOAEL was 150 ppm. (11.5/12.8 mg/kg/day for males and females, respectively) and the LOEL

was 2,000 ppm (154.8/171.1 mg/kg/day for males and females, respectively) based on an increase in the number of pregnant females with increased gestation duration and dystocia. Effects in the offspring consisted of decreased number of pups per litter on postnatal days 0 and/or 4 at 2,000 ppm (154.8/171.1 mg/kg/day for males and females, respectively) with a NOAEL of 150 ppm (11.5/12.8 mg/kg/day for males and females, respectively).

In a 1995 2-generation reproduction study in rats Tebufenozide was administered at dietary concentrations of 0, 25, 200, or 2,000 ppm (0, 1.6, 12.6, or 126.0 mg/kg/day for males and 0, 1.8, 14.6, or 143.2 mg/kg/day for females). For parental systemic toxicity, the NOAEL was 25 ppm (1.6/1.8 mg/kg/day in males and females, respectively), and the LOEL was 200 ppm (12.6/14.6 mg/kg/day in males and females), based on histopathological findings (congestion and extramedullary hematopoiesis) in the spleen. Additionally, at 2,000 ppm (126.0/143.2 mg/kg/day in M/F), treatment-related findings included reduced parental body weight gain and increased incidence of hemosiderin-laden cells in the spleen. Columnar changes in the vaginal squamous epithelium and reduced uterine and ovarian weights were also observed at 2,000 ppm, but the toxicological significance was unknown. For offspring, the systemic NOAEL was 200 ppm. (12.6/14.6 mg/kg/day in males and females), and the LOEL was 2,000 ppm (126.0/143.2 mg/kg/day in M/F) based on decreased body weight on postnatal days 14 and 21.

4. *Subchronic toxicity*. In a prenatal developmental toxicity study in Sprague-Dawley rats 25/group Tebufenozide was administered on gestation days 6–15 by gavage in aqueous methyl cellulose at dose levels of 50, 250, or 1,000 mg/kg/day and a dose volume of 10 ml/kg. There was no evidence of maternal or developmental toxicity; the maternal and developmental toxicity NOAEL was 1,000 mg/kg/day.

5. *Chronic toxicity*. A 1-year dog feeding study with a LOEL of 250 ppm, 9 mg/kg/day for male and female dogs based on decreases in RBC, HCT, and HGB, increases in Heinz bodies, methemoglobin, MCV, MCH, reticulocytes, platelets, plasma total bilirubin, spleen weight, and spleen/body weight ratio, and liver/body weight ratio. Hematopoiesis and sinusoidal engorgement occurred in the spleen, and hyperplasia occurred in the marrow of the femur and sternum. The liver showed an increased pigment in the Kupffer cells. The NOAEL for systemic toxicity in both sexes is 50 ppm (1.9 mg/kg/day).

An 18-month mouse carcinogenicity study with no carcinogenicity observed at dosage levels up to and including 1,000 ppm.

A 2-year rat carcinogenicity with no carcinogenicity observed at dosage levels up to and including 2,000 ppm (97 mg/kg/day and 125 mg/kg/day for males and females, respectively).

6. *Animal metabolism*. The adsorption, distribution, excretion and metabolism of tebufenozide in rats was investigated. Tebufenozide is partially absorbed, is rapidly excreted and does not accumulate in tissues. Although tebufenozide is mainly excreted unchanged, a number of polar metabolites were identified. These metabolites are products of oxidation of the benzylic ethyl or methyl side chains of the molecule. These metabolites were detected in plant and other animal (rat, goat, hen) metabolism studies.

7. *Metabolite toxicology*. Common metabolic pathways for tebufenozide have been identified in both plants (grape, apple, rice and sugar beet) and animals (rat, goat, hen). The metabolic pathway common to both plants and animals involves oxidation of the alkyl substituents (ethyl and methyl groups) of the aromatic rings primarily at the benzylic positions. Extensive degradation and elimination of polar metabolites occurs in animals such that residue are unlikely to accumulate in humans or animals exposed to these residues through the diet.

8. *Endocrine disruption*. The toxicology profile of tebufenozide shows no evidence of physiological effects characteristic of the disruption of the hormone estrogen. Based on structure-activity information, tebufenozide is unlikely to exhibit estrogenic activity. Tebufenozide was not active in a direct *in vitro* estrogen binding assay. No indicators of estrogenic or other endocrine effects were observed in mammalian chronic studies or in mammalian and avian reproduction studies. Ecdysone has no known effects in vertebrates. Overall, the weight of evidence provides no indication that tebufenozide has endocrine activity in vertebrates.

C. Aggregate Exposure

1. *Dietary exposure* — i. *Food*. Tolerances have been established (40 CFR 180.482) for the residues of tebufenozide, in or on walnuts at 0.1 ppm, apples at 1.0 ppm, pecans at 0.01 ppm and wine grapes at 0.5 ppm. Numerous section 18 tolerances have been established at levels ranging from 0.3 ppm in sugar beet roots to 5.0 ppm in turnip tops. Other tolerance petitions are pending at EPA with proposed tolerances ranging from 0.3 ppm in or on sugarcane to 10 ppm in cole crop vegetables. Risk assessments were conducted by Rohm and Haas to assess dietary exposures and risks from tebufenozide, benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide as follows:

ii. *Acute exposure and risk*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. Toxicity observed in oral toxicity studies were not attributable to a single dose (exposure). No neuro or systemic toxicity was observed in rats given a single oral administration of tebufenozide at 0, 500, 1,000 or 2,000 mg/kg. No maternal or developmental toxicity was observed following oral administration of tebufenozide at 1,000 mg/kg/day (Limit-Dose) during gestation to pregnant rats or rabbits. This risk is considered to be negligible.

2. *Chronic exposure and risk* — i. The reference dose (RfD) used for the chronic dietary analysis is 0.018 mg/kg/day. In conducting this exposure assessment, Rohm and Haas has made very conservative assumptions 100% of pecans, walnuts, wine and sherry, pome fruit and all other commodities having tebufenozide tolerances or pending tolerances will contain tebufenozide residues, and those residues would be at the level of the tolerance which result in an overestimate of human dietary exposure. Thus, in making a safety determination for this tolerance, Rohm and Haas is taking into account this conservative exposure assessment. The existing tebufenozide tolerances published, pending, and including the necessary section 18 tolerance(s) resulted in a Theoretical Maximum Residue Contribution (TMRC) that is equivalent to the following percentages of the RfD:

U.S. Population (35.6% of RfD);
All Infants (<1 year) (63.8%);
Nursing Infants (<1 year old) (41.0% of RfD);
Non-Nursing Infants (<1 year old) (73.3% of RfD);
Children (1-6 years old) (81.8% of RfD);
Children (7-12 years old) (50.0% of RfD);
Females (13 + years old, nursing) (40.0% of RfD);
Non-Hispanic Whites (35.8%);
Non-Hispanic Other than Black or White (40.8% of RfD);
Northeast Region (38.2% of RfD);
Western Region (37.6%);

Pacific Region (37.6%).

The subgroups listed above are subgroups for which the percentage of the RfD occupied is greater than that occupied by the subgroup U.S. population (48 States).

ii. *Drinking water — Acute exposure and risk*. Because no acute dietary endpoint was determined, Rohm and Haas concludes that there is a reasonable certainty of no harm from acute exposure from drinking water.

iii. *Chronic exposure and risk*. Submitted environmental fate studies suggest that tebufenozide is moderately persistent to persistent and mobile. Under certain conditions tebufenozide appears to have the potential to contaminate ground and surface water through runoff and leaching; subsequently potentially contaminating drinking water. There are no established Maximum Contaminant Levels (MCL) for residues of tebufenozide in drinking water and no Health Advisories (HA) have been issued for tebufenozide therefore these could not be used as comparative values for risk assessment. Therefore, potential residue levels for drinking water exposure were calculated using Generic expected environmental concentration (GENEEC (surface water)) and screening concentration in ground water (SCIGROW (ground water)) for human health risk assessment. Because of the wide range of half-life values (66–729 days) reported for the aerobic soil metabolism input parameter a range of potential exposure values were calculated. In each case the worst case upper bound exposure limits were then compared to appropriate chronic drinking water level of concern (DWLOC). In each case the calculated exposures based on model data were below the DWLOC.

2. *Non-dietary exposure*. Tebufenozide is not currently registered for use on any residential non-food sites. Therefore there is no chronic, short- or intermediate-term exposure scenario.

D. Cumulative Effects

Cumulative exposure to substances with common mechanism of toxicity. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency hassome information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether tebufenozide, benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, tebufenozide, benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, Rohm and Haas has not assumed that tebufenozide, benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide has a common mechanism of toxicity with other substances.

E. Safety Determination

1. *U.S. population*. Using the conservative exposure assumptions described above, and taking into account the completeness and reliability of the toxicity data, Rohm and Haas has concluded that dietary (food only) exposure to tebufenozide will utilize 35.6% of the RfD for the U.S. population. Submitted environmental fate studies suggest that tebufenozide is moderately persistent to persistent and mobile; thus, tebufenozide could potentially leach to ground water and runoff to surface water under certain environmental conditions. The modeling data for tebufenozide indicate levels less than OPP's DWLOC. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. There are no registered residential uses of tebufenozide. Since there is no potential for exposure to tebufenozide from residential uses, Rohm and Haas does not expect the aggregate exposure to exceed 100% of the RfD.

Since, tebufenozide has been classified as a Group E, ''no evidence of carcinogenicity for humans,'' this risk does not exist.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of tebufenozide, data from developmental toxicity studies in the rat and rabbit and two 2-generation reproduction studies in the rat are considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. Developmental toxicity was not observed in developmental studies using rats and rabbits. The NOAEL for developmental effects in both rats and rabbits was 1,000 mg/kg/day, which is the limit dose for testing in developmental studies.

In the 2-generation reproductive toxicity study in the rat, the reproductive/ developmental toxicity NOAEL of 12.1 mg/kg/day was 14-fold higher than the parental (systemic) toxicity NOAEL (0.85 mg/kg/day). The reproductive (pup) LOEL of 171.1 mg/

kg/day was based on a slight increase in both generations in the number of pregnant females that either did not deliver or had difficulty and had to be sacrificed. In addition, the length of gestation increased and implantation sites decreased significantly in F_1 dams. These effects were not replicated at the same dose in a second 2-generation rat reproduction study. In this second study, reproductive effects were not observed at 2,000 ppm (the NOAEL equal to 149–195 mg/kg/day) and the NOAEL for systemic toxicity was determined to be 25 ppm (1.9–2.3 mg/kg/day).

Because these reproductive effects occurred in the presence of parental (systemic) toxicity and were not replicated at the same doses in a second study, these data do not indicate an increased pre-natal or post-natal sensitivity to children and infants (that infants and children might be more sensitive than adults) to tebufenozide exposure. FFDCA section 408 provides that EPA shall apply an additional safety factor for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety is appropriate. Based on current toxicological data discussed above, an additional uncertainty factor is not warranted and the RfD at 0.018 mg/kg/day is appropriate for assessing aggregate risk to infants and children. Rohm and Haas concludes that there is a reasonable certainty that no harm will occur to infants and children from aggregate exposure to residues of tebufenozide.

F. International Tolerances

There are no approved CODEX maximum residue levels (MRLs) established for residues of tebufenozide. At the 1996 Joint Meeting for Pesticide Residues, the FAO expert panel considered residue data for pome fruit and proposed an MRL of 1.0 mg/kg. An MRL of 1.0 mg/kg was established for apples in Canada.

2. 7F4863

EPA has received a revised pesticide petition (7F4863) from Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of tebufenozide [benzoic acid, 3,5-dimethyl-,1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide] in or on the raw agricultural commodity sugarcane and molasses at 1.0 and 6.0 parts per million (ppm) respectively. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. Plant metabolism. The metabolism of tebufenozide in plants (grapes, apples, rice and sugar beets) is adequately understood for the purpose of this tolerance. The metabolism of tebufenozide in all crops was similar and involves oxidation of the alkyl substituents of the aromatic rings primarily at the benzylic positions. The extent of metabolism and degree of oxidation are a function of time from application to harvest. In all crops, parent compound comprised the majority of the total dosage. None of the metabolites were in excess of 10% of the total dosage.

2. *Analytical method*. A high performance liquid chromatographic (HPLC) analytical method using ultraviolet (UV) detection has been validated for sugarcane, molasses and refined sugar. For all matrices, the methods involve extraction by blending with solvents, purification of the extracts by liquid-liquid partitions and final purification of the residues using solid phase extraction column chromatography. The limit of quantitation of the method is 0.01 ppm.

3. *Magnitude of residues*. Magnitude of the residue and processing studies were conducted in sugarcane using the maximum proposed label rate. Samples were collected 14 days after the last application and were analyzed for residues of tebufenozide. The residue data support a tolerance of 1.0 ppm for sugarcane and 6.0 ppm for molasses. Residues were not found in refined sugar and no tolerance is needed for this commodity.

B. Toxicological Profile

1. *Acute toxicity*. Acute toxicity studies with technical grade: Oral LD_{50} in the rat is > 5 grams for males and females - Toxicity Category IV; dermal LD_{50} in the rat is = 5,000 milligram/kilogram (mg/kg) for males and females - Toxicity Category III; inhalation LD_{50} in the rat is > 4.5 mg/l - Toxicity Category III; primary eye irritation study in the rabbit is a non-irritant; primary skin irritation in the rabbit > 5 mg - Toxicity Category IV. Tebufenozide is not a sensitizer.

2. *Genotoxicty*. Several mutagenicity tests which were all negative. These include an Ames assay with and without metabolic activation, an *in vivo* cytogenetic assay in rat bone marrow cells, and *in vitro* chromosome aberration assay in CHO cells, a CHO/HGPRT assay, a reverse mutation assay with *E. Coli*, and an unscheduled DNA synthesis assay (UDS) in rat hepatocytes.

3. *Reproductive and developmental toxicity*. In a prenatal developmental toxicity study in Sprague-Dawley rats 25/group Tebufenozide was administered on gestation days 6–15 by gavage in aqueous methyl cellulose at dose levels of 50, 250, or 1,000 mg/kg/day and a dose volume of 10 ml/kg. There was no evidence of maternal or developmental toxicity; the maternal and developmental toxicity no observed adverse effect level (NOAEL) was 1,000 mg/kg/day.

In a prenatal developmental toxicity study conducted in New Zealand white rabbits 20/group Tebufenozide was administered in 5 ml/kg of aqueous methyl cellulose at gavage doses of 50, 250, or 1,000 mg/kg/day on gestation days 7-19. No evidence of maternal or developmental toxicity was observed; the maternal and developmental toxicity NOAEL was 1,000 mg/kg/day.

In a 1993 2-generation reproduction study in Sprague-Dawley rats tebufenozide was administered at dietary concentrations of 0, 10, 150, or 1,000 ppm (0, 0.8, 11.5, or 154.8 mg/kg/day for males and 0, 0.9, 12.8, or 171.1 mg/kg/day for females). The parental systemic NOAEL was 10 ppm (0.8/0.9 mg/kg/day for males and females, respectively) and the lowest observed effect level (LOEL) was 150 ppm (11.5/12.8 mg/kg/day for males and females, respectively) based on decreased body weight, body weight gain, and food consumption in males, and increased incidence and/or severity of splenic pigmentation. In addition, there was an increased incidence and severity of extramedullary hematopoiesis at 2,000 ppm. The reproductive NOAEL was 150 ppm. (11.5/12.8 mg/kg/day for males and females, respectively) and the LOEL was 2,000 ppm (154.8/171.1 mg/kg/day for males and females, respectively) based on an increase in the number of pregnant females with increased gestation duration and dystocia. Effects in the offspring consisted of decreased number of pups per litter on postnatal days 0 and/or 4 at 2,000 ppm (154.8/171.1 mg/kg/day for males and females, respectively) with a NOAEL of 150 ppm (11.5/12.8 mg/kg/day for males and females, respectively).

In a 1995 2-generation reproduction study in rats Tebufenozide was administered at dietary concentrations of 0, 25, 200, or 2,000 ppm (0, 1.6, 12.6, or 126.0 mg/kg/day for males and 0, 1.8, 14.6, or 143.2 mg/kg/day for females). For parental systemic toxicity, the NOAEL was 25 ppm (1.6/1.8 mg/kg/day in males and females, respectively), and the LOEL was 200 ppm (12.6/14.6 mg/kg/day in males and females), based on histopathological findings (congestion and extramedullary hematopoiesis) in the spleen. Additionally, at 2,000 ppm (126.0/143.2 mg/kg/day in M/F), treatment-related findings included reduced parental body weight gain and increased incidence of hemosiderin-laden cells in the spleen. Columnar changes in the vaginal squamous epithelium and reduced uterine and ovarian weights were also observed at 2,000 ppm, but the toxicological significance was unknown. For offspring, the systemic NOAEL was 200 ppm. (12.6/14.6 mg/kg/day in males and females), and the LOEL was 2,000 ppm (126.0/143.2 mg/kg/day in M/F) based on decreased body weight on postnatal days 14 and 21.

4. *Subchronic toxicity*. In a prenatal developmental toxicity study in Sprague-Dawley rats 25/group Tebufenozide was administered on gestation days 6–15 by gavage in aqueous methyl cellulose at dose levels of 50, 250, or 1,000 mg/kg/day and a dose volume of 10 ml/kg. There was no evidence of maternal or developmental toxicity; the maternal and developmental toxicity NOAEL was 1,000 mg/kg/day.

5. *Chronic toxicity*. A 1-year dog feeding study with a LOEL of 250 ppm, 9 mg/kg/day for male and female dogs based on decreases in RBC, HCT, and HGB, increases in Heinz bodies, methemoglobin, MCV, MCH, reticulocytes, platelets, plasma total bilirubin, spleen weight, and spleen/body weight ratio, and liver/body weight ratio. Hematopoiesis and sinusoidal engorgement occurred in the spleen, and hyperplasia occurred in the marrow of the femur and sternum. The liver showed an increased pigment in the Kupffer cells. The NOAEL for systemic toxicity in both sexes is 50 ppm (1.9 mg/kg/day).

An 18-month mouse carcinogenicity study with no carcinogenicity observed at dosage levels up to and including 1,000 ppm.

A 2-year rat carcinogenicity with no carcinogenicity observed at dosage levels up to and including 2,000 ppm (97 mg/kg/day and 125 mg/kg/day for males and females, respectively).

6. *Animal metabolism*. The adsorption, distribution, excretion and metabolism of tebufenozide in rats was investigated. Tebufenozide is partially absorbed, is rapidly excreted and does not accumulate in tissues. Although tebufenozide is mainly excreted unchanged, a number of polar metabolites were identified. These metabolites are products of oxidation of the benzylic ethyl or methyl side chains of the molecule. These metabolites were detected in plant and other animal (rat, goat, hen) metabolism studies.

7. *Metabolite toxicology*. Common metabolic pathways for tebufenozide have been identified in both plants (grape, apple, rice and sugar beet) and animals (rat, goat, hen). The metabolic pathway common to both plants and animals involves oxidation of the alkyl substituents (ethyl and methyl groups) of the aromatic rings primarily at the benzylic positions. Extensive degradation and elimination of polar metabolites occurs in animals such that residue are unlikely to accumulate in humans or animals exposed to these residues through the diet.

8. *Endocrine disruption*. The toxicology profile of tebufenozide shows no evidence of physiological effects characteristic of the disruption of the hormone estrogen. Based on structure-activity information, tebufenozide is unlikely to exhibit estrogenic activity. Tebufenozide was not active in a direct *in vitro* estrogen binding assay. No indicators of estrogenic or other endocrine effects were observed in mammalian chronic studies or in mammalian and avian reproduction studies. Ecdysone has no known effects in vertebrates. Overall, the weight of evidence provides no indication that tebufenozide has endocrine activity in vertebrates.

C. Aggregate Exposure

1. *Dietary exposure* —i. *Food*. Tolerances have been established (40 CFR 180.482) for the residues of tebufenozide, in or on walnuts at 0.1 ppm, apples at 1.0 ppm, pecans at 0.01 ppm and wine grapes at 0.5 ppm. Numerous section 18 tolerances have also been established. Other tolerance petitions are pending at EPA with proposed tolerances. Risk assessments were conducted by Rohm and Haas to assess dietary exposures and risks from tebufenozide, benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide as follows:

a. *Acute exposure and risk*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. Toxicity observed in oral toxicity studies were not attributable to a single dose (exposure). No neuro or systemic toxicity was observed in rats given a single oral administration of tebufenozide at 0, 500, 1,000 or 2,000 mg/kg. No maternal or developmental toxicity was observed following oral administration of tebufenozide at 1,000 mg/kg/day (Limit-Dose) during gestation to pregnant rats or rabbits. This risk is considered to be negligible.

b. *Chronic exposure and risk*. The RfD used for the chronic dietary analysis is 0.018 mg/kg/day. In conducting this exposure assessment, Rohm and Haas has made very conservative assumptions 100% of pecans, walnuts, wine and sherry, pome fruit and all other commodities having tebufenozide tolerances or pending tolerances will contain tebufenozide residues, and those residues would be at the level of the tolerance which result in an overestimate of human dietary exposure. Thus, in making a safety determination for this tolerance, Rohm and Haas is taking into account this conservative exposure assessment. Using the Dietary Exposure Evaluation Model (Version 5.03b, licensed by Novigen Sciences Inc.) which uses USDA food consumption data from the 1989–1992 survey and the appropriate concentration or reduction factors, the existing tebufenozide tolerances published, pending, and including the necessary section 18 tolerance(s) resulted in a Theoretical Maximum Residue Contribution (TMRC) that is equivalent to the following percentages of the RfD:

U.S. Population (35.8% of RfD);
Northeast Region (37.5% of RfD);
Western Region (39.8%);
Pacific Region (40.9%)All Infants (<1 year) (36.3%);
Nursing Infants (<1 year old) (16.8% of RfD);
Non-Nursing Infants (<1 year old) (44.5% of RfD);
Children (1-6 years old) (61.9% of RfD);
Children (7-12 years old) (45.6% of RfD);
Females (13 + years old, nursing) (30.6% of RfD);
Non-Hispanic Whites (36.0%);
Non-Hispanic Other than Black or White (43.1% of RfD).

The subgroups listed above are subgroups for which the percentage of the RfD occupied is greater than that occupied by the subgroup U.S. population (48 States).

ii. *Drinking water*. Acute exposure and risk. Because no acute dietary endpoint was determined, Rohm and

Haas concludes that there is a reasonable certainty of no harm from acute exposure from drinking water.

iii. *Chronic exposure and risk.* Submitted environmental fate studies suggest that tebufenozide is moderately persistent to persistent and mobile. Under certain conditions tebufenozide appears to have the potential to contaminate ground and surface water through runoff and leaching; subsequently potentially contaminating drinking water. There are no established Maximum Contaminant Levels (MCL) for residues of tebufenozide in drinking water and no Health Advisories (HA) have been issued for tebufenozide therefore these could not be used as comparative values for risk assessment. Therefore, potential residue levels for drinking water exposure were calculated using Generic expected environmental concentration (GENEEC (surface water)) and screening concentration in ground water (SCIGROW (ground water)) for human health risk assessment. Because of the wide range of half-life values (66–729 days) reported for the aerobic soil metabolism input parameter a range of potential exposure values were calculated. In each case the worst case upper bound exposure limits were then compared to appropriate chronic drinking water level of concern (DWLOC). In each case the calculated exposures based on model data were below the DWLOC.

2. *Non-dietary exposure.* Tebufenozide is not currently registered for use on any residential non-food sites. Therefore there is no chronic, short- or intermediate-term exposure scenario.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether tebufenozide, benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, tebufenozide, benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, Rohm and Haas has not assumed that tebufenozide, benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide has a common mechanism of toxicity with other substances.

E. Safety Determination

1. *U.S. population.* Using the conservative exposure assumptions described above, and taking into account the completeness and reliability of the toxicity data, Rohm and Haas has concluded that dietary (food only) exposure to tebufenozide will utilize 35.8% of the RfD for the U.S. population. Submitted environmental fate studies suggest that tebufenozide is moderately persistent to persistent and mobile; thus, tebufenozide could potentially leach to ground water and runoff to surface water under certain environmental conditions. The modeling data for tebufenozide indicate levels less than OPP's DWLOC. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. There are no registered residential uses of tebufenozide. Since there is no potential for exposure to tebufenozide from residential uses, Rohm and Haas does not expect the aggregate exposure to exceed 100% of the RfD.

Short- and intermediate-term risk. Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Since there are currently no registered indoor or outdoor residential non-dietary uses of tebufenozide and no short- or intermediate-term toxic endpoints, short- or intermediate-term aggregate risk does not exist.

Since, tebufenozide has been classified as a Group E, ''no evidence of carcinogenicity for humans,'' this risk does not exist.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of tebufenozide, data from developmental toxicity studies in the rat and rabbit and two 2-generation reproduction studies in the rat are considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. Developmental toxicity was not observed in developmental studies using rats and rabbits. The NOAEL for developmental effects in both rats and rabbits was 1,000 mg/kg/day, which is the limit dose for testing in developmental studies.

In the 2-generation reproductive toxicity study in the rat, the reproductive/ developmental toxicity NOAEL of 12.1 mg/kg/day was 14-fold higher than the parental (systemic) toxicity NOAEL (0.85 mg/kg/day). The

reproductive (pup) LOEL of 171.1 mg/kg/day was based on a slight increase in both generations in the number of pregnant females that either did not deliver or had difficulty and had to be sacrificed. In addition, the length of gestation increased and implantation sites decreased significantly in F_1 dams. These effects were not replicated at the same dose in a second 2-generation rat reproduction study. In this second study, reproductive effects were not observed at 2,000 ppm (the NOAEL equal to 149–195 mg/kg/day) and the NOAEL for systemic toxicity was determined to be 25 ppm (1.9–2.3 mg/kg/day).

Because these reproductive effects occurred in the presence of parental (systemic) toxicity and were not replicated at the same doses in a second study, these data do not indicate an increased pre-natal or post-natal sensitivity to children and infants (that infants and children might be more sensitive than adults) to tebufenozide exposure. FFDCA section 408 provides that EPA shall apply an additional safety factor for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety is appropriate. Based on current toxicological data discussed above, an additional uncertainty factor is not warranted and the RfD at 0.018 mg/kg/day is appropriate for assessing aggregate risk to infants and children. Rohm and Haas concludes that there is a reasonable certainty that no harm will occur to infants and children from aggregate exposure to residues of tebufenozide.

F. International Tolerances

There are no approved CODEX maximum residue levels (MRLs) established for residues oftebufenozide.

[FR Doc. 99–3662 Filed 2–16–99; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:00 a.m. on Tuesday, February 16, 1999, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to sections 552b(c) (2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider (1) matters relating to the Corporation's corporate and supervisory activities, and (2) reports from the Office of Inspector General.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: February 11, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–3906 Filed 2–11–99; 5:10 pm]
BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Technical Mapping Advisory Council

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of meeting.

SUMMARY: In accordance with § 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, the Federal Emergency Management Agency gives notice that the following meeting will be held:

NAME: Technical Mapping Advisory Council.

DATE OF MEETING: March 1–2, 1999.

PLACE: ASCE Office, 1015 Fifteenth Street, NW., Washington, DC.

TIME: 8:30 a.m. to 5:00 p.m., both days.

PROPOSED AGENDA:

1. Call to order and announcements.
2. Action on minutes of previous two meetings.
3. Plan of action for 1999: Unnumbered A-Zones, Alluvial Fans, Migrating streambeds.
4. Progress Report on the Map Modernization Plan and FY99 study projections.
5. Adjournment.

STATUS: This meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Federal Emergency Management Agency, 500 C Street SW., room 421, Washington, DC 20472, telephone (202) 646–2756 or by facsimile at (202) 646–4596.

SUPPLEMENTARY INFORMATION: This meeting is open to the public with limited seating available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact Sally Magee, Federal Emergency Management Agency, 500 C Street SW., room 444, Washington, DC 20472, telephone (202) 646–8242 or by facsimile at (202) 646–4596 on or before December 2, 1998.

Minutes of the meeting will be prepared and will be available upon request 30 days after they have been approved by the next Technical Mapping Advisory Council meeting.

Dated: February 9, 1999.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 99–3880 Filed 2–16–99; 8:45 am]
BILLING CODE 6718–04–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice of information collections submitted to OMB for review and approval under Paperwork Reduction Act of 1995.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (the ''agencies'') may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number.

On November 19, 1998 the agencies requested public comments for 60 days on proposed revisions to the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) and the extension, without revision, of the Report of Assets and Liabilities of Non-U.S. Branches that are Managed or Controlled by a U.S. Branch or Agency of a Foreign Bank (FFIEC 002s). Both reports are currently approved collections of information. The Federal Financial (Institutions Examination Council (FFIEC), of which the agencies are members, has given final approval to the proposed revisions. The Board is publishing the proposed revisions and extension on behalf of the agencies.

DATES: Comments must be submitted on or before March 19, 1999.

ADDRESSES: Interested parties are invited to submit written comments to

the agency listed below. All comments, which should refer to the OMB control number, will be shared among the agencies.

Written comments should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments received may be inspected in room M–P–500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.12 of the Board's Rules Regarding Availability of Information, 12 CFR 261.12(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management the Budget, New Executive Office Building, room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed revised collections of information may be requested from the Board's clearance officer whose name appears below.

Mary M. West, Chief, Financial Reports Section, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Request for OMB approval to extend, with revision, of the following currently approved collections of information:

Report Title: Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks.

Form Number: FFIEC 002.

OMB Number: 7100–0032.

Frequency of Response: Quarterly.

Affected Public: U.S. branches and agencies of foreign banks.

Estimated Number of Respondents: 506.

Estimated Total Annual Responses: 2,024.

Estimated Time per Response: 23.15 burden hours.

Estimated Total Annual Burden: 46,856 burden hours.

General Description of Report: This information collection is mandatory: 12 U.S.C. 3105(b)(2), 1817(a)(1) and (3), and 3102(b). Except for select sensitive items, this information collection is not given confidential treatment (5 U.S.C. 552(b)(8)).

Small businesses (that is, small U.S. branches and agencies of foreign banks) are affected.

Abstract: On a quarterly basis, all U.S. branches and agencies of foreign banks (U.S. branches) are required to file detailed schedules of assets and liabilities in the form of a condition report and a variety of supporting schedules. This balance sheet information is used to fulfill the supervisory and regulatory requirements of the International Banking Act of 1978. The data are also used to augment the bank credit, loan, and deposit information needed for monetary policy and other public policy purposes. The Federal Reserve System collects and processes this report on behalf of all three agencies.

Current Actions: The agencies propose to revise the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) effective March 31, 1999, by: deleting the existing memorandum items for the amortized cost and fair value of high-risk mortgage securities; revising the instructions to conform with the American Institute of Certified Public Accountants Statement of Position (SOP) 98–1, including a new Glossary entry for ''internal-use computer software'' that summarizes SOP 98–1; and clarifying the Glossary and other reporting instructions for unsuitable investment practices, re-booking of charged-off loans, and consolidation of subsidiaries.

The Board did not receive any comments in response to the notice published in the **Federal Register** on November 19, 1998, (63 FR 64258) requesting comment on the proposed revisions to the FFIEC 002 for 1999.

Summary of the Revisions to the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002): The revisions to the FFIEC 002 Report listed below have been approved by the FFIEC. The agencies will implement these changes as of the March 31, 1999, report date.

Deletion

(1) In Schedule RAL—Assets and Liabilities, Memorandum items 5 and 6 for the fair value and amortized cost of ''High-risk mortgage securities'' will be deleted.

Instructional Changes

(1) The instructions will be revised to conform with AICPA Statement of Position 98–1, Accounting for the Costs of Computer Software Developed or Obtained for Internal Use.

(2) A new entry will be added to the Glossary section of the instructions discussing the reporting of securities activities, including descriptions of certain trading practices. These practices were previously discussed in the agencies' 1992 Supervisory Policy Statement on Securities Activities, which was replaced in April 1998 by a revised policy statement on investment securities that does not address these reporting issues.

(3) The Glossary entry for ''Assets Classified Loss'' will be revised to indicate that the cost basis of a loan or lease that has been reduced through a direct write-down may not be increased at a later date by reversing the previous write-down.

Other Revisions

(1) Consolidation of Subsidiaries: Some U.S. branches have requested that the FFIEC clarify whether subsidiaries of U.S. branches should be consolidated in the FFIEC 002. Consistent with U.S. generally accepted accounting principles (GAAP) subsidiaries that are controlled by a U.S. branch should be consolidated in the FFIEC 002. Accordingly, the general instructions will be revised to indicate that, consistent with GAAP, a U.S. branch should consolidate all entities in which it maintains a controlling financial ownership interest, e.g., a direct or indirect ownership interest of more than 50 percent of an entity's outstanding voting shares.

SUPPLEMENTARY INFORMATION: Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following reports:

Report Title: Report of Assets and Liabilities of a Non-U.S. Branch that is Managed or Controlled by a U.S. Branch of Agency of a Foreign (Non-U.S.) Bank.

Form Number: FFIEC 002S.

OMB Number: 7100–0273.

Frequency of Response: Quarterly.

Affected Public: U.S. branches and agencies of foreign banks.

Estimated Number of Respondents: 114.

Estimated Total Annual Responses: 456.

Estimated Time per Response: 6 burden hours.

Estimated Total Annual Burden: 2,736 burden hours..

General Description of Report: This information collection is mandatory: 12 U.S.C. 3105(b)(2), 1817(a)(1) and (3), and 3102(b) and is given confidential treatment (5 U.S.C. 552(b)(8)).

Small businesses are not affected.

Abstract: On a quarterly basis, all U.S. branches and agencies of foreign banks are required to file detailed schedules of their assets and liabilities in the form FFIEC 002. The FFIEC 002S is a separate supplement to the FFIEC 002 that collects information on assets and liabilities of any non-U.S. branch that is ''managed or controlled'' by a U.S. branch or agency of the foreign bank. Managed or controlled means that a majority of the responsibility for business decisions, including but not limited to decisions with regard to lending or asset management or funding or liability management, or the responsibility for recordkeeping in respect of assets or liabilities for that foreign branch resides at the U.S. branch or agency. A separate FFIEC 002S must be completed for each managed or controlled non-U.S. branch. The FFIEC 002S must be filed quarterly along with the U.S. branch's or agency's FFIEC 002.

The data are used: (1) to monitor deposit and credit transactions of U.S. residents; (2) for monitoring the impact of policy changes; (3) for analyzing structural issues concerning foreign bank activity in U.S. markets; (4) for understanding flows of banking funds and indebtedness of developing countries in connection with data collected by the International Monetary Fund (IMF) and the Bank for International Settlements (BIS) that are used in economic analysis; and (5) to provide information to assist in the supervision of U.S. offices of foreign banks, which often are managed jointly with these branches.

Current Actions: The proposal to extend for three years, without revision, the Report of Assets and Liabilities of a Non-U.S. Branch that is Managed or Controlled by a U.S. Branch or Agency of a Foreign (Non-U.S.) Bank (FFIEC 002S) that is the subject of this notice has been approved by the FFIEC.

The Board did not receive any letters of comment in response to the notice published in the **Federal Register** on November 19, 1998, requesting comment on the proposal to extend the FFIEC 002S for three years.

Request for Comments Regarding the FFIEC 002 and FFIEC 002S

Comments submitted in response to this Notice will be shared among the agencies. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden as well as other relevant aspects of the information collection requests. Comments are invited on:

(1) Whether the proposed revisions to the FFIEC 002 and the extension of the FFIEC 002S collections of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(2) The accuracy of the agencies' estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected;

(4) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(5) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Board of Governors of the Federal Reserve System, February 10, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–3758 Filed 2–16–99; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 12, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. 1st State Bancorp, Inc., Burlington, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of 1st State Bank, Burlington, North Carolina.

2. 1st State Bank Foundation, Inc., Burlington, North Carolina; to become a bank holding company by acquiring 14.7 percent of the voting shares of 1st State Bancorp, Inc., Burlington, North Carolina, and thereby acquire 1st State Bank, Burlington, North Carolina.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Community First Bancshares, Inc., New Iberia, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Community First Bank, New Iberia, Louisiana (in organization).

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Metroplex North Bancshares, Inc., Employee Stock Ownership Plan, Celeste, Texas; to become a bank holding company by acquiring 29.8 percent of the voting shares of Metroplex North Bancshares, Inc., Celeste, Texas, and thereby indirectly acquire The First Bank of Celeste, Celeste, Texas.

Board of Governors of the Federal Reserve System, February 10, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–3740 Filed 2–16–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages

either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 2, 1999.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Commercial National Financial Corporation, Latrobe, Pennsylvania; to engage *de novo* through its subsidiary, Commercial National Insurance Services, Latrobe, Pennsylvania, in a joint venture with Gooder & Mary, Inc., Ligonier, Pennsylvania, and thereby engage in general insurance activities in a place of less than 5,000, pursuant to § 225.28(b)(11)(iii).

Board of Governors of the Federal Reserve System, February 10, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–3739 Filed 2–16–99; 8:45 am]

BILLING CODE 6210–01–F

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Notice of committee renewal.

SUMMARY: Pursuant to section 14(b) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that the charter of the Federal Accounting Standards Advisory Board has been renewed by the General Services Administration's Committee Management Secretariat, effective January 15, 1999, for a two year period expiring January 15, 2001.

FOR FURTHER INFORMATION CONTACT: Wendy Comes, Executive Director, 441 G St., NW., Room 3B18, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463, section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: February 10, 1999.

Wendy M. Comes,

Executive Director.

[FR Doc. 99–3742 Filed 2–16–99; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of National AIDS Policy; Notice of Meeting of the Presidential Advisory Council on HIV/AIDS and Its Subcommittees

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Presidential Advisory Council on HIV/AIDS on March 15–16, 1999, at the Embassy Suites, Washington, DC. The meeting of the Presidential Advisory Council on HIV/AIDS will take place on Monday, March 15 and Tuesday, March 16 from 8:30 a.m. to 6 p.m. at the Embassy Suites, 1250 22nd Street, NW, Washington, DC 20037. The meetings will be open to the public.

The purpose of the subcommittee meetings will be to finalize any recommendations and assess the status of previous recommendations made to the Administration. The agenda of the Presidential Advisory Council on HIV/AIDS may include presentations from the Council's subcommittees, Discrimination, International, Prevention, Prison, Racial Ethnic Populations, Research, and Services Issues.

Daniel C. Montoya, Executive Director, Presidential Advisory Council on HIV and AIDS, Office of National AIDS Policy, 736 Jackson Place, NW, Washington, DC 20503, Phone (202) 456–2437, Fax (202) 456–2438, will furnish the meeting agenda and roster of committee members upon request. Any individual who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Andrea Hall at (301) 986–4870 no later than February 26, 1999.

Dated: February 4, 1999.

Daniel C. Montoya,

Executive Director, Presidential Advisory Council on HIV and AIDS, Office of National AIDS Policy.

[FR Doc. 99–3747 Filed 2–16–99; 8:45 am]

BILLING CODE 3195–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 99015]

Development and Support of Research Agenda Needs Related to Injury Prevention and Control; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement with a multi-disciplined injury control research group to promote collaborative, educational, and scholarly activity in defining the research and training needs for injury control professionals and in developing the field of injury prevention and control.

This program addresses the ''Healthy People 2000'' priority areas of Unintentional Injury, Violent and Abusive Behavior, and Surveillance and Data Systems.

The purpose of this cooperative agreement is to assist an injury control research group in defining the training needs of the field of injury prevention and control, in synthesizing the expertise of the multiple disciplines of injury control, in disseminating injury research findings, and in serving as a resource for injury researchers and practitioners, all in the context of building and sustaining the field of injury prevention and control.

B. Eligible Applicants

Applications may be submitted by all public and private non-profit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, and other public and private nonprofit organizations, State and local governments or their bona fide agents, including small, minority and/or women-owned businesses are eligible to apply.

Non-profit organizations must have their tax-exempt status as determined by the Internal Revenue Service (IRS) Code, Section 501(c). Tax-exempt status may be provided by either providing a copy of the current IRS Determination Letter or copy of the pages from the IRS most recent list of 501(c) tax-exempt organization. Proof of tax-exempt status must be provided with the application.

Note: Pub. L. 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be

eligible to receive Federal funds constituting an award, grant (cooperative agreement), contract, loan, or any other form.

C. Availability of Funds

Approximately $50,000 is available in FY 1999 to fund one cooperative agreement. It is expected that the award will begin on or about August 1, 1999, and will be made for a 12-month budget period within a project period of up to five years. This funding estimate may vary and is subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress in meeting objectives and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities:

a. Promote collaborative, educational, and scholarly activity in defining the research and training needs of injury control professionals and in developing the field of injury prevention and control, both clinician and practitioner-oriented, through program development, teaching, and other activities drawing upon expertise from multiple disciplines, settings and perspectives.

b. Facilitate dissemination of the injury research findings of both the federally and non-federally funded community of injury control researchers to enable improvements in injury control policies and programs.

c. Provide a coordinated resource to other researchers and practitioners in accessing expertise in the development of program activities.

d. Sustain a focus on teaching the next generation of injury researchers and practitioners by participating in the development of improved educational opportunities in appropriate disciplines.

e. Promote rigorous evaluation of injury control initiatives through development and dissemination of improved methodologies for program implementation and evaluation.

f. Maintain active liaisons with other organizations, institutions, and agencies whose purposes and functions are similar in order to develop a more comprehensive presence in ongoing discussions defining injury-related issues.

2. CDC Activities:

a. Provide assistance in defining the research and training needs of injury control professionals in the developing field of injury prevention and control.

b. Provide assistance in the provision of a coordinated resource to other researchers, practitioners, and decision makers in accessing the expertise of the multiple disciplines of the field of injury prevention and control.

c. Provide continuing updates on scientific and operational developments related to injury prevention and control as part of a shared dissemination strategy.

E. Application Content

Applications for support of an injury prevention and control cooperative agreement should follow the PHS–398 (Rev. 5/95) application and Errata sheet, and should include the following information:

1. Face page
2. Description (abstract) and personnel
3. Table of contents
4. Detailed budget for the initial budget period: The budget should reflect the composite figures for the cooperative agreement as well as breakdown budgets for individual projects within the cooperative agreement.
5. Budget for the entire proposed project period including budgets pertaining to consortium/contractual arrangements.
6. Biographical sketches of key personnel, consultants, and collaborators.
7. Other support: This listing should include all other funds or resources pending or currently available. For each grant or contract, include source of funds, amount of funding (indicate whether pending or current), date of funding (initiation and termination), and relationship to the proposed program.
8. Resources and environment available to carry out described activities.
9. Operational plan including:

a. A detailed operational plan including value to field, and specific, measurable, and time-framed objectives consistent with the proposed activities for each project within the proposed cooperative agreement.

b. A detailed evaluation plan that addresses outcome and cost-effectiveness evaluation as well as formative, efficacy, and process evaluation.

c. A description of the organization and its role in implementing and evaluating the proposed programs. The applicant should clearly specify how disciplines will be integrated to achieve the coordinating organization's objectives.

d. Charts showing the proposed organizational structure of the coordinating organization and its relationship to any broader institution of which it is a part, and, where applicable, to affiliate institutions or collaborating organizations. These charts should clearly detail the lines of authority as they relate to the coordinating organization, both structurally and operationally.

e. Documentation of the public health agencies and other public and private sector entities' involvement in the proposed program, including letters that detail commitments of support and a clear statement of the role, activities, and participating personnel of each agency or entity.

An applicant organization has the option of having specific salary and fringe benefit amounts for individuals omitted from the copies of the application which are made available to outside reviewing groups. To exercise this option: on the original and five copies of the application, the applicant must use asterisks to indicate those individuals for whom salaries and fringe benefits are not shown; the subtotals must still be shown. In addition, the applicant must submit an additional copy of page four of Form PHS–398, completed in full, with the asterisks replaced by the salaries and fringe benefits. This budget page will be reserved for internal staff use only.

Use the information in the Program Requirements, Other Requirements, Evaluation Criteria sections and the Errata Sheet (Addendum 3) to develop the application content. Your application will be evaluated on the criteria listed so it is important to follow them in laying out your program plan. Each application should be limited to 40 pages, excluding attachments.

F. Submission and Deadline

Submit the original and five copies of PHS 398 (OMB Number 0925–0001) and adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are in the application kit.

On or before April 20, 1999, submit to: Sharron P. Orum, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office Announcement #99015.

Centers for Disease Control and Prevention (CDC) 2920 Brandywine Road, M/S E–13 Atlanta, GA 30341–4146

Applications shall be considered as meeting the deadline if they are received at the above address on or before the deadline date; or sent on or before the deadline date, and received in time for an objective review process. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal

Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC:

1. Background and Need (5 percent) The extent to which the applicant describes experience in related projects, and describes the context and needs related to the purpose of this program announcement.
2. Scope, Goals, and Objectives (15 percent) The extent to which the applicant provides relevant long-term goals and short-term objectives which are specific, measurable, time-phased, and achievable.
3. Operational Plan (40 percent) The extent to which the applicant provides an operational plan which addresses achievement of each of the objectives proposed. Does the applicant provide a description of each component or major activity, how it relates to objectives, and how it will be accomplished? Does the plan include a detailed time-line for completion of each component or major activity?
4. Administration and Management (20 percent) The extent to which the organizational structure is described and to which adequate management control systems are in place. Is proposed staffing adequate for completion of activities under this program announcement?
5. Evaluation Plan (20 percent) The extent to which the evaluation plan provides an adequate basis for monitoring and evaluating proposed activities.
6. Budget (not scored) The extent to which the budget is reasonable, clearly justified, and consistent with stated objectives and proposed activities.

H. Other Requirements

Technical Reporting Requirements Provide CDC with original plus two copies of:

1. progress report annually;
2. financial status report, no more than 90 days after the end of the budget period; and
3. final financial status report and performance report, no more than 90 days after the end of the project period.

Send all reports to: Sharron P. Orum, Grants Management Specialist Grants Management Branch, Procurement and Grants Office Centers for Disease Control and Prevention (CDC) 2920 Brandywine Road, Mailstop E–13 Atlanta, Georgia 30341–4146.

The following additional requirements are applicable to this program. For a complete description of each see Addendum 1 in the application kit.

AR98–10—Smoke-Free Workplace Requirement
AR98–11—Healthy People 2000
AR98–12—Lobbying Restrictions
AR98–13—Prohibition on Use of CDC funds for Certain Gun Control Activities
AR98–15—Proof of Non-Profit Status
AR98–20—Conference Activities within Grants/Cooperative Agreements

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Sections 301, 391, 392, 393, and 394 of the Public Health Service Act, [42 U.S.C. 241, 280b, 280b–1, 280b–1a, and 280b–2] as amended. Program regulations are set forth in 42 CFR Part 52. The catalog of Federal Domestic Assistance number is 93.136.

J. Where To Obtain Additional Information

Please refer to Program Announcement 99015 when you request information. To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–471–6874). You will be asked to leave your name and address and you will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Sharron P. Orum, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, M/S E–13, Atlanta, GA 30341–4146, Telephone: (770) 488–2716, E-mail address: *spo2@cdc.gov*

For program technical assistance, contact: Tom Voglesonger, Office of Research Grants National Center for Injury Prevention and Control Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE, Mailstop K–58, Atlanta, GA 30341–3724, Telephone: (770) 488–4265, E-mail address: *tdv1@cdc.gov*

This and other CDC announcements are available through the CDC homepage on the Internet. The address for the CDC homepage is *http://www.cdc.gov*.

Dated: February 10, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–3755 Filed 2–16–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Project:

Title: ACF–IV–E–1 Foster Care and Adoption Assistance Financial Reporting Form.

OMB No.: New.

Description: The form provides specific data regarding claims and provides a mechanism for States to request grant awards and certify the availability of State matching funds. Failure to collect this data would seriously compromise ACF's ability to monitor expenditures. This information is also used to estimate outlays and may be used to prepare ACF budget submissions to Congress.

Respondents: State, Local or Tribal Government.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per repondents	Average burden hours per response	Total burden hours
ACF–IV–E–1	51	4	8	1,632

Estimated Total Annual Burden Hours: 1,632.

In compliance with the requirements of Section 3506(c)(2)(A) the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways of minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: February 10, 1999.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 99–3802 Filed 2–16–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Current Issues in Human Subject Protection; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA) is announcing a national conference regarding issues in human research subject protection. Current regulatory issues, historical perspectives and future directions will be presented. Participants will have the opportunity to interact with senior Federal personnel and learn about developments in policy and regulations which affect the Institutional Review Board (IRB) system and the conduct of research involving human subjects.

Date and Time: The meeting will be held on March 5, 1999, 8:30 a.m. to 4:45 p.m.

Location: The meeting will be held at Natcher Auditorium, National Institutes of Health Campus, Bldg. 45, 9000 Rockville Pike, Bethesda, MD.

Contact: Paul W. Goebel, Office of Health Affairs (HFY–20), Food and Drug Administration, rm. 15–22, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1685, FAX 301–443–0232, or e-mail ''pgoebel@oc.fda.gov''.

Registration: Pre-registration is not required; however, for conference planning purposes, those who plan to attend are requested to fax or e-mail their registration information (including name, firm name, address, phone, fax number, and e-mail) to Glen Drew, FAX 301–443–0232, e-mail ''gdrew@oc.fda.gov'' or call Paul Goebel, Paula Waterman, or Glen Drew at 301–827–1685. There is no fee for attending the conference, and it is open to all. The agenda and background material are available on FDA's internet site at ''http://www.fda.gov/oc/oha/irbagenda.htm''.

If you need special accommodations due to a disability, please contact Paul Goebel at least 7 days in advance.

Dated: February 10, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–3775 Filed 2–16–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0007]

''Guidance for Industry: For the Submission of Chemistry, Manufacturing and Controls and Establishment Description Information for Human Plasma-Derived Biological Products, Animal Plasma or Serum-Derived Products;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document entitled ''Guidance for Industry: For the Submission of Chemistry, Manufacturing and Controls and Establishment Description Information for Human Plasma-Derived Biological Products, Animal Plasma or Serum-Derived Products.'' The guidance document is intended to assist applicants in the preparation of the content and format of the chemistry, manufacturing, and controls (CMC) section and the establishment description section of a biologics license application (BLA), revised Form FDA 356h, which is currently being implemented for human plasma-derived biological products, animal plasma or serum-derived products. This action is part of FDA's continuing effort to achieve the objectives of the President's ''Reinventing Government'' initiatives and the Food and Drug Administration Modernization Act of 1997, and is intended to reduce unnecessary burdens for industry without diminishing public health protection.

DATES: Written comments may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled ''Guidance for Industry: For the Submission of Chemistry, Manufacturing and Controls and Establishment Description Information for Human Plasma-Derived Biological Products, Animal Plasma or Serum-Derived Products'' to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document. Submit written comments on the guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance document entitled ''Guidance for Industry: For the Submission of Chemistry, Manufacturing and Controls and Establishment Description Information for Human Plasma-Derived Biological

Products, Animal Plasma or Serum-Derived Products.'' This guidance document provides general information for the preparation of CMC and establishment description sections of the BLA, revised Form FDA 356h, which is currently being implemented for human plasma-derived biological products, animal plasma or serum-derived products. This guidance document supersedes the draft guidance entitled ''Guidance for Industry: For the Submission of Chemistry, Manufacturing and Controls and Establishment Description Information for Human Plasma-Derived Biological Products or Animal Plasma or Serum-Derived Products'' that was announced in the **Federal Register** of January 21, 1998 (63 FR 3145).

In the **Federal Register** of July 8, 1997 (62 FR 36558), FDA announced the availability of a revised Form FDA 356h that will be used as a single harmonized application form for all drugs and licensed biological products. Manufacturers may voluntarily begin using this form for human plasma-derived biological products, animal plasma or serum-derived products. FDA will announce in the future when manufacturers are required to use this form for all products. Use of the new harmonized Form FDA 356h will allow a biologic product manufacturer to submit one BLA instead of two separate license applications (product license application and establishment license application).

This guidance document represents the agency's current thinking on the content and format of the CMC and establishment description information section of a BLA for human plasma-derived biological products, animal plasma or serum-derived products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both. As with other guidance documents, FDA does not intend this guidance document to be all-inclusive and cautions that not all information may be applicable to all situations. The guidance document is intended to provide information and does not set forth requirements.

II. Comments

Interested persons, may at any time, submit to the Dockets Management Branch (address above) written comments regarding this guidance document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the guidance document using the World Wide Web (WWW). For WWW access, connect to CBER at ''http://www.fda.gov/cber/guidelines.htm''.

Dated: February 5, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–3715 Filed 2–16–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–0121]

Draft Guidance for Industry on Waiver of In Vivo Bioavailability and Bioequivalence Studies for Immediate Release Solid Oral Dosage Forms Containing Certain Active Moieties/ Active Ingredients Based on a Biopharmaceutics Classification System; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Waiver of In Vivo Bioavailability and Bioequivalence Studies for Immediate Release Solid Oral Dosage Forms Containing Certain Active Moieties/Active Ingredients Based on a Biopharmaceutics Classification System.'' When final, the guidance will provide recommendations to sponsors of investigational new drug applications (IND's) and applicants submitting new drug applications (NDA's), and abbreviated new drug applications (ANDA's) who intend to perform bioavailability and bioequivalence (BA/BE) studies for immediate release solid oral products during either the preapproval or postapproval periods.

DATES: Written comments on the draft guidance document may be submitted by April 19, 1999. General comments on the agency guidance documents are welcome at any time.

ADDRESSES: Copies of this draft guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm. Submit written requests for single copy of the draft guidance for industry entitled ''Waiver of In Vivo Bioavailability and Bioequivalence Studies for Immediate Release Solid Oral Dosage Forms Containing Certain Active Moieties/ Active Ingredients Based on a Biopharmaceutics Classification System'' to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ajaz S. Hussain, Center for Drug Evaluation and Research (HFD–940), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5927.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance for industry entitled ''Waiver of In Vivo Bioavailability and Bioequivalence Studies for Immediate Release Solid Oral Dosage Forms Containing Certain Active Moieties/ Active Ingredients Based on a Biopharmaceutics Classification System.'' When it becomes final, this guidance for industry will provide recommendations on when in vivo BA/BE studies may be waived for NDA's and ANDA's submitted to the Center for Drug Evaluation and Research during either the preapproval or postapproval period.

In 1974, the Office of Technology Assessment's Drug Bioequivalence Study Panel made eleven recommendations, one of which stated:

> It is neither feasible nor desirable that studies of bioavailability be conducted for all drugs or drug products. Certain classes of drugs for which evidence of bioequivalence is critical should be identified. Selection of these classes of drugs should be based on clinical importance, ratios of therapeutic to toxic concentrations in blood, and certain pharmaceutical characteristics.

Based on this and other recommendations of the panel, FDA proposed and finalized regulations in 1977 entitled ''Bioequivalence Requirements and In Vivo Bioavailability Procedures'' (42 FR 1624, January 7, 1977). In these regulations, now at 21 CFR 320.33, under the title ''Criteria and Evidence to

Assess Actual or Potential Bioequivalence Problems,'' FDA provided criteria to assess actual or potential BE problems. Drug products meeting these criteria were deemed ''bioproblem'' drug products, with the understanding that other drug products would be able to document BA/BE through in vitro studies. FDA applied these criteria to decide whether a Drug Efficacy Study Implementation (DESI) effective drug could demonstrate bioequivalence through in vitro studies alone, or whether a combination of in vivo and in vitro approaches were required. The list of DESI effective bioproblem drug products appeared in § 320.22 (21 CFR 320.22) (1992). Beginning in 1979, DESI effective oral immediate release drug products that were not considered to contain bioproblem drugs were allowed to document BE via in vitro studies and achieved an AA rating in FDA's ''Approved Drug Products with Therapeutic Equivalence Ratings'' (the Orange Book). In a 1981 document (46 FR 27396, May 19, 1981), FDA instituted a policy termed the ''paper NDA policy,'' which provided for approval of some duplicate versions of post-1962 drugs. As part of this policy, FDA required demonstration of in vivo BE for all duplicate post-1962 nonsolution drug products, including locally acting drug products, prior to approval for marketing. With the passage of the Drug Price Competition and Patent Term Restoration Act of 1984 (Waxman-Hatch), this general approach was recommended for all post-1962 nonsolution drug products (54 FR 28872 at 28882 through 28883, July 10, 1989).

Although the approach to require in vivo documentation of BA/BE for many drug products, both pre- and post-1962, has been generally followed, FDA has in some cases allowed in vitro methods for documenting BA/BE even for post-1962 drug products. Furthermore, as noted both at § 320.22 ''Criteria for Waiver of Evidence of In Vivo Bioavailability or Bioequivalence'' and at 21 CFR 320.24 ''Types of Evidence to Establish Bioavailability or Bioequivalence,'' many options exist to allow waivers of in vivo documentation of BA/BE and to demonstrate BA/BE through in vitro methodology. The draft guidance describes when waivers of in vivo BA/BE studies will be allowed under specified circumstances depending on the solubility, intestinal permeability, and dissolution characteristics of the drug substance and the drug product and based on the biopharmaceutic classification system.

To further justify the objective of reducing regulatory burden while maintaining adequate documentation of BA/BE, FDA encourages the submission of data that support or refute the recommendations in the guidance, specifically the submission of in vivo and in vitro data that document bioinequivalence of pharmaceutically equivalent immediate release products that are rapidly dissolving, and contain a highly permeable, and highly soluble drug.

Following receipt of public comments on this draft guidance, FDA intends to discuss the draft guidance before a meeting of the Advisory Committee for Pharmaceutical Science. After receipt of the public comments, the advisory committee deliberation, and further discussion within the agency, the guidance document will be finalized. FDA does not recommend that any provisions of the draft guidance be implemented at this time.

This draft level 1 guidance document is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). It represents the agency's current thinking on BA/BE approaches for immediate release solid oral products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may submit written comments on the draft guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 10, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–3777 Filed 2–16–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96D–0067]

Guidance for Industry on Clinical Development Programs for Drugs, Devices, and Biological Products for the Treatment of Rheumatoid Arthritis (RA); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Clinical Development Programs for Drugs, Devices, and Biological Products for the Treatment of Rheumatoid Arthritis (RA).'' This guidance is intended to assist developers of drugs, biological products, or medical devices intended for the treatment of rheumatoid arthritis (RA). It provides guidance on the types of claims that could be considered for such products and on clinical evaluation programs that could support those claims. The guidance also contains recommendations on the timing, design, and conduct of preclinical and clinical trials for RA products and on special considerations for juvenile RA.

DATES: General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of the guidance are available on the Internet at ''http://www.fda.gov/cder/guidance/index.htm'', or ''http://www.fda.gov/cber/guidelines.htm''. Submit written requests for single copies of the guidance for industry to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Call 888–CBERFAX or 301–827–3844 for copies by fax or CBER's Voice Information System at 800–835–4709 or 301–827–1800 for copies by mail. Send one self-addressed adhesive label to assist the offices in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Kent R. Johnson, Center for Drug Evaluation and Research (HFD–550), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2080; or
Jeffrey N. Siegel, Center for Biologics Evaluation and Research (HFM–582), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–5094; or
Sahar M. Dawisha, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–3091, ext. 196, FAX 301–594–2358.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance for industry entitled ''Clinical Development Programs for Drugs, Devices, and Biological Products for the Treatment of Rheumatoid Arthritis (RA).'' The guidance contains recommendations on the timing, design, and conduct of preclinical and clinical trials for RA products and on special considerations for juvenile RA.

This guidance has been under development since 1995. The first version of the guidance was completed in March 1996. An additional section on juvenile RA was added in May of that year. A second version was completed in January 1997. Two public workshops have been held on the topic, on March 27, 1996, and on July 23, 1996. On February 5, 1997, the draft guidance was discussed at a meeting of the Arthritis Advisory Committee. Another draft version, published for comment on March 18, 1998 (63 FR 13259), incorporated suggestions made during the February 5, 1997, Arthritis Advisory Committee. In developing this final version of the guidance, FDA considered comments submitted to the docket on the March 18, 1998, draft guidance.

This guidance represents the agency's current thinking on RA. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments on the guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments and requests are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 10, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–3776 Filed 2–16–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–4008–N]

Medicare Program; Establishment of the Citizens Advisory Panel on Medicare Education and Requests for Nominations for Members

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: Pursuant to Public Law 92–463, the Federal Advisory Committee Act (FACA), the Department of Health and Human Services (DHHS) announces the establishment by the Secretary of the Citizens Advisory Panel on Medicare Education (CAP–ME). The Secretary, DHHS, signed the charter establishing the Committee on January 21, 1999. This notice also requests nominations for members for the panel. The Committee shall terminate on January 22, 2001, unless the Secretary, DHHS, formally determines that continuance is in the public interest.

This Committee shall advise and make recommendations to the Secretary, DHHS, and the Administrator of the Health Care Financing Administration (HCFA) on opportunities for HCFA to make more effective use of its National Medicare Education Program and other HCFA programs that help Medicare beneficiaries understand the expanded range of Medicare options available with the passage of the Medicare+Choice program.

DATES: Nominations for members will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on April 5, 1999.

ADDRESSES: You may mail or deliver nominations for membership to the following address: Linda Levin, Center for Beneficiary Services, Health Care Financing Administration, 7500 Security Boulevard, Room S1–08–07, Baltimore, MD 21244-1850.

A request for a copy of the Secretary's charter for the CAP–ME should be submitted to Eric Katz, J.D., Center for Beneficiary Services, Health Care Financing Administration, 7500 Security Boulevard, Room S1–08–07, Baltimore, MD 21244-1850, (410) 786–6477, or by e-mail to ekatz@hcfa.gov.

FOR FURTHER INFORMATION CONTACT: Eric Katz, (410) 786–6477.

SUPPLEMENTARY INFORMATION:

I. Background and Legislative Authority

The Citizens Advisory Panel on Medicare Education (CAP–ME) is governed by provisions of Public Law 92–463 as amended (5 U.S.C. Appendix 2), which sets forth standards for the formulation and use of advisory committees. The Secretary, DHHS, has found that the CAP–ME is necessary and in the public interest.

The CAP–ME will consist of 10 appointed members from among authorities in disability and chronic disease interests, minority populations, health consumer interests, seniors' organizations, health communications and policy, research and philanthropic organizations, health insurers and plans, employer groups, and health providers.

The CAP–ME will focus its review on the National Medicare Education Program and our other efforts to help Medicare beneficiaries and those who assist them find accurate and current information about new Medicare options and benefits under the Medicare+Choice program. The committee will also identify best practices in consumer health education that could enhance our efforts to inform and assist Medicare beneficiaries about their health plan options. An annual report to our Administrator will summarize the panel's findings and any recommendations the panel may provide.

We are requesting nominations for voting members to serve on the CAP–ME. We have a special interest in ensuring that women, minority groups, and physically challenged individuals are adequately represented on the advisory committee and, therefore, encourage nominations of qualified candidates from these groups. We also seek to ensure geographic diversity in the composition of the panel.

All nominations and curricula vitae for the CAP-ME should be sent to Linda Levin at the address in the **ADDRESSES** section of this notice.

II. Criteria for Members

Persons nominated for membership should have expertise in one or more of the following areas: disability and chronic disease interests, minority populations, health consumer interests, seniors' organizations, health

communications and policy, research and philanthropic organizations, health insurers and plans, employer groups, and health providers.

Nominations must state that the nominee is willing to serve as a member of the CAP-ME and appears to have no conflict of interest that would preclude membership. Potential candidates will be asked to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflict of interest.

Members shall be appointed to a term of between 1 and 4 years, with 3- and 4-year appointments contingent on the Secretary deciding it is in the public interest to continue this Committee beyond the initial 2-year term described in the Charter.

Any interested person may nominate one or more qualified persons. Self-nominations will also be accepted.

Authority: Section 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 5, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 99–3557 Filed 2–11–99; 11:31 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development.

ADDRESSES: Licensing information and a copy of the U.S. patent applications referenced below may be obtained by contacting J.R. Dixon, Ph.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone: 301/496–7056 ext. 206; fax: 301/402–0220; e-mail: jd212g@nih.gov). A signed Confidential Disclosure Agreement is required to receive a copy of any patent application.

Specific Killing of HIV-Infected Lymphocytes by a Recombinant Immunotoxin Directed by a Recombinant Immunotoxin Directed Against the HIV–1 gp120 Envelope Glycoprotein

Drs. Ira H. Pastan (NCI), Tapan K. Bera (NCI), Paul E. Kennedy (NIAID), Edward A. Berger (NIAID), and Carlos F. Barbas III (EM-The Scripps Research Institute)

Serial No. 60/088,860—Filed June 11, 1998

Since the initial isolation of HIV in 1983, and its identification as the causative agent of AIDS, tremendous research efforts have been expanded to understand the cause and pathogenesis of AIDS, but an effective therapy leading to a cure for AIDS has, as of this date, not been successful or accomplished. There are several therapeutic drugs available to treat infected patients that prolong life and somewhat control symptoms.

The major approaches for the treatment of individuals with AIDS or HIV infections are the administration of drugs such as reverse transcriptase inhibitors (e.g., AZT (3′-azido-3′-deoxythymidine) or ddi (2′,3-dideoxyinosine) which act by inhibiting synthesis of proviral genome after the virion has entered the host cell and protease inhibitors which block the production of infectious virions. Although these agents can effectively inhibit HIV spread *in vivo* and *in vitro*, they do not kill those cells that are already infected with the HIV virus. Recently, a highly active antiretroviral therapy (HHAT) shows encouraging results in reducing viral load in lymphoid tissue of HIV infected patients. In this approach a cocktail consisting of an HIV protease inhibitor and two reverse transcriptase inhibitors is administered. However, again, while significant progress has been made recently in the treatment of HIV–1 infection, we are not yet close to a cure for AIDS.

The technology available from NIH is directed to an immunotoxin that specifically binds to and kills cells displaying an HIV gp 120 coat protein. The immunotoxin comprises an anti-gp 120 antibody directed to the conserved CD4 binding site of gp 120 attached to a cytotoxin (e.g., a Pseudomonas exotoxin). In one preferred embodiment the immunotoxin is a recombinantly expressed fusion protein comprising a disultfide linked Fv region attached to a modified Pseudomonas exotoxin [i.e., 3B3 (Fv)–PE38]. The technology is directed to a pharmaceutical composition, to the composition of the immunotoxin, to methods for killing HIV infected cells, and to a kit for killing cells that display a gp 120 protein.

Recombinant Anti-Tumor RNases

Drs. Susanna M. Rybak (FCRDC) and Dianne L. Newton (FCRDC)

Serial No. 60/079,751—Filed March 27, 1998

The above mentioned invention provides for novel recombinant ribonuclease proteins which when expressed by bacteria are active antitumor agents. Additionally the recombinant ribonucleases of this invention can be fused inframe with ligand receptor binding moieties to form specifically cytotoxic fusion proteins. Furthermore, these proteins are more active than ribonucleases currently available. Because these proteins are recombinant proteins, mutations that increase cytotoxicity can be engineered. The present invention discloses the cloning and the sequence of cDNA from the liver of female Rana pipiens that encodes a novel recombinant RNase and describes some of the expressed proteins' unique cytotoxic properties. The novel RNase is a protent cytotoxic agent to various cancer cell lines (e.g.., neoplastic Kaposi's sacrcoma derived endothelial cells) and linked to a ligand, such as anti-CD22 antibody, has been found to be efficacious against human lymphoma cells.

Targeting Antigens to the MHC Class I Processing Pathway With an Anthrax Toxin Fusion Protein

Dr. Kurt R. Klimpel (NIDCR), Theresa J. Goletz (NCI), Naveen Arora (NIDCR), Stephen H. Leppla (NIDCR), and Jay A. Berzofsky (NCI)

DHHS Ref. No. E–171–96/0—Filed September 17, 1996; Serial No. 08/937,276—Filed September 15, 1997

The mammalian immune system reacts to invading pathogens by mounting two broad defenses: the cell-mediated response and the humoral response. Viral and other intracellular infections are controlled primarily by the cell-mediated immune system. This control is achieved through recognition of foreign antigen displayed on the cell surface of an infected cell. The objective for a vaccine that stimulates the cell-mediated immune system is to deliver protein antigens to the cell cytosol for processing and subsequent presentation by MHC class I molecules. The present

invention describes a vaccine that stimulates the cell-mediated immune system and a method for immunizing mammals. The invention also describes a method of inducing antigen-presenting cells to present specific antigens using the MHC Class I processing pathway.

The invention provides a vaccine for inducing an immune response in mammals to a specific antigen, where the vaccine comprises a unit dose of a binary toxin protective antigen and the antigen, which is bound to a binary toxin protective antigen binding protein. In one embodiment the vaccine is comprised of an anthrax protective antigen and the antigen bound to anthrax protective antigen binding protein. The invention also provides a method of immunizing a mammal against an antigen using the vaccine, and a method of inducing antigen-presenting mammalian cells to present specific antigens via the MHC class I processing pathway.

The advantage of the invention and the anthrax system, unlike other bacteria toxin systems which are limited in their capacity to deliver large protein antigen to the cell, is the ability to accommodate whole protein antigens.

Some of the major market segments for this technology are: cancer vaccine delivery systems; treatment of persistent infectious diseases; immunotherapeutics; delivery of DNA vaccines.

Dated: February 9, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 99–3854 Filed 2–16–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee H—Clinical Groups

Date: March 25–26, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: The Hyatt Regency Hotel, 100 Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Deborah R. Jaffe, PhD, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard, Rockville, MD 20892, (301) 496–7221.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 10, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–3861 Filed 2–16–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Council for Human Genome Research, February 22, 1999, 8:30 a.m. to February 23, 1999, 5:00 p.m., National Institutes of Health, Building 31, C Wing, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892 which was published in the **Federal Register** on January 15, 1999, 64 FR 2654.

The meeting is now being held on February 21–22, 1999. The session on 2/21, which is closed to the public, will be held 6:30 p.m. to recess at the Bethesda Marriott, Bethesda, MD. The open session will begin 2/22, 8:30–12 noon, at NIH. The meeting is partially Closed to the public.

Dated: February 10, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–3859 Filed 2–16–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIDR Special Grants Review Committee 99–34, Review of RO3s, T32s, K23 & 24s

Date: February 18–19, 1999.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Hyatt Regency Hotel, 100 Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: William J. Gartland, Scientific Review Administrator, Scientific Review Section, National Institute of Dental Research, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: February 10, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–3855 Filed 2–16–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Review of Grant Application.

Date: February 19, 1999.

Time: 1:30 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: Wyndham Washington Hotel, 1400 M Street NW, Washington, DC 20005–2750 (Telephone Conference Call).

Contact Person: Paula S. Strickland, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C02, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–402–0643.

This notice is being published less than 15 days prior to the meeting due to timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 10, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–3856 Filed 2–16–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: February 23, 1999.

Time: 2:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, (Telephone Conference Call).

Contact Person: Jack D. Maser, Phd, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, 301–443–1340.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: March 3–4, 1999.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave, Chevy Chase, MD 20815.

Contact Person: Jack D. Maser, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, 301–443–1340.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: February 10, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–3857 Filed 2–16–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: February 23, 1999.

Time: 3:30 pm to 4:30 pm.

Agenda: To review and evaluate contract proposals.

Place: 7550 Wisconsin Avenue, Federal Building, Room 9C10, Bethesda, MD 20814–9692. (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NINDS, National Institutes of Health, PHS, DDHS, Federal Building, Room 89C10, 7550 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: February 10, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–3858 Filed 2–16–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental Research Special Emphasis Panel 99–26, P01 Applicant Interview.

Date: February 25–26, 1999.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Yasaman Shirazi, PhD, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institute of Dental & Craniofacial Res., Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental Research Special Emphasis Panel 99–10, RFA–Centers of Discovery.

Date: March 4–6, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Hyatt Dulles, Dulles Corner Blvd., Herndon, VA 20171.

Contact Person: Yong A. Shin, PhD, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental Research Special Emphasis Panel 99–27, P01 Applicant Interview.

Date: March 30–31, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: The Hyatt Regency Hotel, 100 Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Yasaman Shirazi, PhD, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institute of Dental & Craniofacial Res., Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Programs Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: February 10, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–3860 Filed 2–16–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Health and Economic Status Project 4 and 6 Supplement.

Date: March 4, 1999.

Time: 1:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Gateway Building, Rm 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Paul Lenz, PhD, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/ Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel, Pilot Research Grant Program.

Date: March 9–10, 1999.

Time: 4:30 pm to 10:00 am.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin, Suite 502C, Bethesda, MD 20892.

Contact Person: Jeffrey M. Chernak, PhD, Gateway Building, 7201 Wisconsin Avenue/ Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group, Sociology Aging Review Committee.

Date: March 11, 1999.

Time: 9:00 am to 6:00 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, Bethesda, MD 20017.

Contact Person: Mary Ann Guadagno, PhD, Health Scientist Administrator, Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Small Grants in Sociology and Psychology.

Date: March 12, 1999.

Time: 9:00 am to 6:00 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, Bethesda, MD 20017.

Contact Person: Mary Ann Guadagno, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Dietary Restriction and Aging in Rhesus Macaques.

Date: April 12, 1999.

Time: 2:30 pm to 4:30 pm.

Agenda: To review and evaluate grant applications.

Place: 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: William A. Kachadorian, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: February 10, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–3862 Filed 2–16–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, HIV Vaccine Research and Design.

Date: March 17–18, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Ave., Washington, DC 20007.

Contact Person: Kevin W. Ryan, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C12, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–435–8694.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 10, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–3863 Filed 2–16–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. the grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1–TMP–4.

Date: February 12, 1999.

Time: 2:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW, Washington, DC 20007.

Contact Person: Jean Hickman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7808, Bethesda, MD 20892, (301) 435–1146.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93–396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 10, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–3852 Filed 2–16–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit Number TE007824

Applicant: Wolf Timbers, Bolivar, Ohio (Martin J. Huth, President).

The applicant requests a permit to obtain a captive-bred wolf pup (*Canis lupus*) in interstate commerce. The applicant has applied for a permit to obtain and add this pup to an existing facility for the purpose of conservation education in support of recovery of the species. The proposed transaction is requested to occur between the States of Indiana and Ohio.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056. Telephone: (612/713–5343); FAX: (612/713–5292).

Dated: February 9, 1999.

Frank J. Horvath,

Acting Program Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 99–3722 Filed 2–16–99; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Environmental Impact Statement for the Proposed Southpoint Power Plant, Fort Mojave Indian Reservation, Mojave County, AZ

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of amendment to dates for public comment.

SUMMARY: On January 15, 1999, the Bureau of Indian Affairs (BIA) published in the **Federal Register** (64 FR 2657) a Notice of Availability, with public comment dates, for the Final Environmental Impact Statement (FEIS) for the proposed Southpoint Power Plant, Fort Mojave Indian Reservation, Mojave County, Arizona. The BIA now wishes to amend its public comment dates for this FEIS, to make them consistent with the comment period for the Notice of Availability for this same FEIS published by the Environmental Protection Agency in the January 22, 1999, **Federal Register** (64 FR 3510).

DATES: Written comments will be accepted through February 23, 1999. The Record of Decision will be issued on or after February 26, 1999.

ADDRESSES: Address comments to Mr. Wayne Nordwall, Area Director, Bureau of Indian Affairs, Phoenix Area Office, Attn: Environmental Quality Services, P.O. Box 10, Phoenix, Arizona 85001, Telephone 602–379–6750, Fax 602–379–3833.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Heuslein, Environmental Quality Services, Phoenix Area Office, 602–379–6750.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to Section 1503.1 of the Council on Environmental Quality Regulations (40 CFR parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: February 9, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–3721 Filed 2–16–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 125–09–6334–05; GP9–0094]

Emergency Closure Notice for Public Lands on North Spit

AGENCY: Bureau of Land Management, U.S. Department of Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that effective February 9, 1999, access to all public lands and roads administered by the Bureau of Land Management on North Spit, within T. 25 S., R. 13 W., Secs. 3, 4, 5, 6, 7, 18 and 19 and all of T. 25 S. R. 14 W., Willamette Meridian, Oregon, will be restricted to authorized personnel only for the duration of the New Carissa incident.

All uses are restricted. This restriction is needed for public safety, to alleviate poor access conditions and to keep the area clear for emergency and salvage operations to the incident site. Personnel authorized by the New

Carissa incident command team are exempt from the restriction.

This closure order is in accordance with the provisions of the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579,90 stat. 2743,43 U.S.C. 1701) and 43 CFR, Subpart 8364.

Any person who fails to comply with the provisions of this order may be subject to a fine not to exceed $1,000.00 and/or imprisonment not to exceed 12 months [43 CFR 3860.0–7].

FOR FURTHER INFORMATION CONTACT: Alan Hoffmeister (541) 756–0100.

Dated: February 9, 1999.

M. Elaine Raper,

Acting Umpqua Field Manager.

[FR Doc. 99–3723 Filed 2–16–99; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–030–99–1610–00]

Notice of Extension of Public Comment Period

SUMMARY: Notice is hereby given that the public comment period for the Grand Staircase-Escalante National Monument Draft Management Plan and Draft Environmental Impact Statement (DMP/DEIS) prepared by the Bureau of Land Management (BLM) is extended.

DATES: Comments must be received by the new deadline of March 15, 1999 at the address below.

FOR FURTHER INFORMATION CONTACT: Chris Killingsworth, Planning Team Leader, Bureau of Land Management, Grand Staircase-Escalante National Monument Planning Office, 337 South Main Street, Suite 010, Cedar City, Utah 84720, telephone (435) 865–5100; E-mail: mkilling@ut.blm.gov; fax number (435) 865–5170.

SUPPLEMENTARY INFORMATION: The BLM, Utah published in the November 12, 1998 issue of the **Federal Register** that comments were to be received by Friday, February 12, 1999. In response to Congressional and public requests, the Administration decided to provide more time for public comment. The new deadline for public comment is now extended to March 15, 1999.

Douglas M. Koza,

Acting State Director, Utah.

[FR Doc. 99–3753 Filed 2–16–99; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–300–1990–00]

Surface Management Regulations for Locatable Mineral Operations; Draft Environmental Impact Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of draft environmental impact statement.

SUMMARY: The Bureau of Land Management (BLM) announces that the draft environmental impact statement (DEIS) analyzing proposed changes to BLM's surface management regulations for locatable mineral operations is available for public review and comment. This action is necessary to comply with the National Environmental Policy Act of 1969. BLM has prepared the DEIS to determine the potential environmental impacts of the various regulatory options under consideration.

DATES: Comments will be accepted until May 10, 1999. See the **SUPPLEMENTARY INFORMATION** section for the dates of public hearings on the DEIS and proposed regulations.

ADDRESSES: Send written comments to: Bureau of Land Management, Attention: Paul McNutt; Nevada State Office; P.O. Box 12000; Reno, Nevada 89520–0006. See the **SUPPLEMENTARY INFORMATION** section for the electronic access and filing address and for the locations of public hearings. Comments will be available for public review at the BLM Nevada State Office, 1340 Financial Boulevard, Reno, Nevada from 7:45 a.m. to 4:15 p.m., Pacific time, Monday through Friday, excluding Federal holidays.

You may obtain a copy of the DEIS by contacting either of the persons identified under the **FOR FURTHER INFORMATION CONTACT** section or by contacting any BLM State office.

FOR FURTHER INFORMATION CONTACT: Paul McNutt, BLM Nevada State Office, (775) 861–6604, or via e-mail: pmcnutt@nv.blm.gov. An alternate contact is Andrew Strasfogel, BLM Washington Office, (202) 452–7723, or via e-mail: astrasfo@wo.blm.gov. Individuals who use a telecommunications device for the deaf may contact Mr. McNutt or Mr. Strasfogel by calling the Federal Information Relay Service at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

BLM is making available for public comment the DEIS for proposed revisions to its surface management regulations, found at 43 CFR 3809. The proposed rule was published in the **Federal Register** on February 9, 1999. See 64 FR 6421. BLM is amending the regulations to address issues that have developed since the program began in 1981, as well as those identified during the scoping process described below, and to improve BLM's management of locatable mineral operations on public lands. The Proposed Action in the DEIS would be to adopt the proposed regulations at 43 CFR 3809. The proposed regulations address Federal-State coordination, the need for comprehensive performance standards, failure by some operators to perform reclamation, inadequate reclamation bonding for some types of operations, ineffective enforcement provisions, and the need to better assess the cumulative environmental impacts from small operations. In the DEIS, BLM also identifies and analyzes three additional alternatives for regulating locatable mineral operations on public lands administered by BLM. These alternatives are No Action, that is, no change to the existing regulations; State-Based Regulations; and Maximum Protection, Design-Based Regulations. BLM invites interested members of the public to comment on the DEIS.

Scoping Process

BLM published a Notice of Intent to prepare a DEIS in the **Federal Register** on April 4, 1997 (62 FR 16177). BLM then held scoping meetings for the public and interested governmental agencies at 11 locations throughout the Western United States, as well as an additional public meeting in Washington, D.C. Over 1,000 people attended the public meetings. In addition to verbal comments collected at the public meetings, BLM also received more than 1,800 comment letters from individuals and representatives of State and local governments, the mining industry, and citizens' groups.

Public Comment Procedures

BLM asks commenters on the DEIS to be specific, explain the reason for any comment, and reference the specific section or page of the DEIS to which their comment applies. The most useful comments are those supported by quantitative information or studies or include citations to and analyses of applicable laws, regulations, and cases. Commenters should send BLM two

copies of their written comments, if possible. Comments that BLM receives after the date indicated in the **DATES** section or at locations other than the location in the **ADDRESSES** section will not necessarily be considered in preparing the final environmental impact statement.

Electronic Access and Filing Address

Commenters may transmit comments electronically via the Internet to: 3809EIS@wo.blm.gov. Please include your name and address in the message. The system will confirm receipt of your Internet message. The DEIS is also accessible on BLM's home page at http://www.blm.gov.

Confidentiality of Public Comments

BLM will make comments, including names, street addresses, and other contact information of commenters, available for public review at the location listed in the **ADDRESSES** section. If you are an individual commenter and wish to have BLM withhold your name, street address, and other contact information (such as Internet address or FAX or phone number) from public review or from disclosure under the Freedom of Information Act, please state this prominently at the beginning of your comment. BLM will honor requests for confidentiality to the extent allowed by law. However, BLM will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

Public Hearings

BLM will hold public hearings on the DEIS and proposed rule at the following locations on the dates and local times specified:

Alaska

Fairbanks—Tuesday, March 30, 1999—Carlson Center, 2010 Second Avenue; 1:00 p.m. and 7:00 p.m.

Arizona

Phoenix—Tuesday, March 30, 1999—Sheraton Hotel, 2620 Dunlap Avenue; 1:00 p.m. and 6:00 p.m.

California

San Francisco—Tuesday, April 20, 1999—Holiday Inn Civic Center, 50 Eighth Street; 1:00 p.m. and 6:00 p.m.

Ontario—Wednesday, April 21, 1999—Doubletree Hotel; times to be determined.

Sacramento—Thursday, April 22, 1999—Red Lion Inn, 1401 Arden Way; 1:00 p.m. and 6:00 p.m.

Colorado

Lakewood— Tuesday, March 30, 1999—Sheraton Denver West Hotel and Conference Center, 360 Union Blvd., Golden Room; 1:00 p.m. and 7:00 p.m.

Washington, D.C.

Wednesday, April 14, 1999—Washington Plaza Hotel, 10 Thomas Circle, NW, Monroe Room; 12:30 p.m.

Idaho

Boise—Tuesday, April 27, 1999—BLM State Office, 1387 S. Vinnell Way, Sagebrush-Ponderosa Conference Room; 6:00 p.m.

Montana

Helena—Wednesday, April 14, 1999—Colonial Inn, 2301 Colonial Drive; 1:30 p.m. and 7:00 p.m.

New Mexico

Socorro—Wednesday, March 31, 1999—Macey Center, 801 Leroy, Galina Room; 3:00 p.m.

Nevada

Reno—Tuesday, March 23, 1999—Silver Legacy Hotel; 2:00 p.m. and 7 p.m.

Elko—Thursday, March 25, 1999—Convention Center; 1:00 p.m. and 6:00 p.m.

Oregon

Eugene—Thursday, April 22, 1999—BLM District Office, 2890 Chad Street, Conference Room; 1:00 p.m. and 7:00 p.m.

Utah

Salt Lake City—Wednesday, April 7, 1999—Department of Natural Resources, 1594 West North Temple, Rooms 1040/50, 1:00 p.m. and 6:00 p.m.

Washington

Spokane—Tuesday, April 20, 1999—Doubletree Inn; 1:00 p.m. and 7:00 p.m.

Wyoming

Casper—Wednesday, March 31, 1999—Casper Parkway Plaza Inn, 123 West E Street; 2:00 p.m. and 7:00 p.m.

In order to assist the transcriber and to ensure an accurate record, BLM requests that persons who testify at a hearing give the transcriber a copy of their testimony. The meeting sites are accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the hearing, such as interpreting service, assistive listening device, or materials in an alternate format, must notify the person listed under the **FOR FURTHER INFORMATION CONTACT** section two weeks before the scheduled hearing date. Although BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Dated: February 10, 1999.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 99–3748 Filed 2–16–99; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1430–00; WYW–142433]

Notice of Availability of the Red Gulch Dinosaur Tracksite Environmental Assessment and Finding of No Significant Impact, and the Proposed Designation of an Area of Critical Environmental Concern for Public Review and Comment, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Environmental Assessment (EA) for the Red Gulch Dinosaur Tracksite describes three alternatives for managing the review area, including the Bureau of Land Management's Preferred Alternative. The environmental consequences of implementing each of the alternatives are also presented in the document. The planning review area encompasses about 1,800 acres of BLM-administered public land in the Washakie Planning Area of the Worland Field Office.

A review of existing land-use planning decisions is being conducted to decide how to manage public lands, resources, educational opportunities, and other values associated with the recent discovery of dinosaur tracks on BLM-administered public lands near Shell, Wyoming. The tracks were not addressed in the Washakie Resource Management Plan (RMP) which was completed in 1988, and the BLM is evaluating the adequacy of existing management prescriptions for the discovery area for protecting the tracks and related values. The BLM's Preferred Alternative would emphasize management of the Red Gulch Dinosaur Tracksite for scientific research, public education, and recreation. The tracksite would be designated an Area of Critical Environmental Concern (ACEC) and would become part of an existing Special Recreation Management Area (SRMA). In addition, the BLM would close the area to the staking and

development of mining claims and would prohibit most other surface-disturbing activities under the Preferred Alternative. Based on the analysis of potential environmental impacts contained in the EA, it has been determined that the impacts are not expected to be significant and that an Environmental Impact Statement is not needed.

The Washakie RMP will be amended, if necessary, after the BLM reviews comments on the EA, resolves any protests, makes any needed changes to the EA, and releases a Decision Record.

DATES: Reviewers will have 30 (thirty) days (by March 19, 1999) after the Notice Of Availability (NOA) of this EA is published in the **Federal Register** to submit protests on the proposed decision (Preferred Alternative) as provided by 43 CFR 1610.5–2. All parts of the proposed decision may be protested. Protests shall be filed with the Director of the Bureau of Land Management, Attention: Ms. Brenda Williams, Protests Coordinator, WO–210/LS–1075, Department of the Interior, Washington, DC 20240.

The same 30-day time period will be allowed for commenting on the proposed decision, other elements of the EA, and the Finding of No Significant Impact; and 60 (sixty) days beginning on the same date, will be allowed for review and comment on the proposed ACEC designation (see 43 CFR 1610.7–2(b)). Comments should be directed to Bob Ross, Worland Field Office Planning Coordinator, P.O. Box 119, Worland, Wyoming 82401–0119.

FOR FURTHER INFORMATION CONTACT: Bob Ross at (307) 347–5178. Copies of the EA are available from the Worland Field Office.

SUPPLEMENTARY INFORMATION: Following the discovery of the Red Gulch Dinosaur Tracksite, the BLM completed a temporary management plan for the lands in and around the fossil discovery area and offered opportunities for public participation in the planning review.

The steps followed in this planning review are: (1) Paleontologists and geologists are consulted on the significance and vulnerability of the dinosaur tracks. (2) Temporary measures are put into effect to protect the health and safety of tracksite visitors, allow for scientific research during the summer field season, and prevent damage to the fossil resources. These measures include a temporary segregation (closure) of the public lands to the staking and development of mining claims. (3) A notice of intent to conduct a planning review is published to inform the public of known and anticipated issues and of opportunities for public participation and comment. (4) An interdisciplinary planning team describes and analyzes the existing management in the planning review area and describes the affected environment. (5) Public contacts and meetings are held for scoping and for review of the preliminary issues and alternatives. (6) With the help of the public, management alternatives for the area are formulated and analyzed in the EA. (7) A notice is published to inform the public of the availability of the EA for review. If any protests are received on proposed decisions to be added to or changed in the RMP, these are resolved by the BLM Director. (8) The EA is then revised, if necessary, and a Decision Record is issued with a description of the comments and/or protests on the proposed decisions, along with an explanation of how the comments and/or protests were answered. If appropriate, the Decision Record will incorporate additional or changed land-use planning decisions, thereby amending the Washakie RMP.

Based on the public's input and analysis by the BLM interdisciplinary team, the following issues have been identified. (1) Whether the area should be managed for scientific research, public education, and recreation with the development of interpretive signs and facilities. (2) Whether the area should be managed primarily for scientific research with little or no development. (3) Whether the area should be designated an ACEC to emphasize the protection of significant fossil resources. (4) Whether the area should be included within the West Slope of the Bighorn Mountains SRMA to allow for more intensive recreation management. (5) Whether commercial outfitters should be allowed to take visitors on tours of the tracksite. (6) Whether withdrawing some or all of the area from mining claim development would be necessary. (7) Whether other measures, in addition to those required by the Washakie RMP, are necessary to protect the tracks from surface-disturbing activities.

The three alternatives analyzed in the EA are: (1) No Action (continuation of existing management); (2) Management for Scientific Research; and (3) Management for Scientific Research, Public Education, and Recreation (BLM's Preferred Alternative). The various impacts that would be expected from implementing each of the alternatives is also presented in the EA.

Depending on the results of the comment and protest periods, the Washakie RMP could be amended at the time a Decision Record is issued.

Comments, including names and street addresses of respondents will be available for public review at the Worland Field Office, 101 South 23rd Street, Worland, Wyoming during regular business hours (7:30 a.m. to 4:30 p.m.) Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: February 10, 1999.

Alan L. Kesterke,

Associate State Director.

[FR Doc. 99–3754 Filed 2–16–99; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before Febuary 6, 1999. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by March 4, 1999.

Carol D. Shull,

Keeper of the National Register.

ARKANSAS

Chicot County

Saunders House, 4236 US 82 E, Lake Village vicinity, 99000264

Independence County

Wyatt House, Jct. AR 25 and Gainer Ferry Rd., Desha, 99000263

COLORADO

Fremont County

Colorado Women's Prison, 201 N. 1st St., Canon City, 99000265

Montezuma County

Albert Porter Pueblo (Great Pueblo Period of the McElmo Drainage Unit MPS), Address

Restricted, Yellow Jacket vicinity, 99000266

NEVADA

Washoe County

Frey Ranch, 1140 W. Peckham Ln., Reno, 99000267

NEW HAMPSHIRE

Strafford County

Rollinsford Town Hall, 667 Main St., Rollinsford, 99000268

NEW JERSEY

Burlington County

Riverton Historic District, Roughly bounded by the Delaware R., Park Ave., Thomas Ave., and Fulton St., Riverton Borough, 99000271

Hunterdon County

Covered Bridge Historic District, Roughly along NJ 604, Pine Hill Rd., and Lower Creek Rd., Delaware Township vicinity, 99000269

Morris County

Silver Lake Historic District, Roughly along Blue Mill Rd., Dickson's Mill Rd., Beuren Rd., Red Gate Rd., and James St., Harding, 99000270

NORTH CAROLINA

Mitchell County

Church of the Resurrection, 302 High Ridge Rd., Little Switzerland, 99000272

Rowan County

Ellis Street Graded School Historic District, Roughly bounded by Graig, Innes, Jackson, and Cemetery Sts., Salisbury, 99000273

NORTH DAKOTA

Grand Forks County

South Junior High School, 1224 Walnut St., Grand Forks, 99000274

OHIO

Hamilton County

Power Building, 224 E. 8th St., Cincinnati, 99000276
St. Francis Seminary, 10290 Mill Rd., Springfield, 99000275

TENNESSEE

Bledsoe County

Bellview School, TN 101, Pikeville vicinity, 99000279

Davidson County

Tanglewood Historic District (Boundary Increase), 4905 Tanglewood Dr., Nashville, 99000282

Hamilton County

Signal Knitting Mills, 205 Manufacturers Rd., Chattanooga, 99000281
W Road, W Rd. from Spring St E 0.4 mi., Walden, 99000277

Shelby County

Idlewild Historic District (Residential Resources of Memphis MPS), Roughly bounded by S. Cooper St., Linden Ave., Rembert St., and Central Ave., Memphis, 99000278
Speedway Terrace Historic District (Residential Resources of Memphis MPS), Roughly bounded by N. Watkins, Snowden, N. Bellevue, and Forrest Ave., Memphis, 99000280

TEXAS

Bexar County

Brady Building—Empire Theater, 204 E. Houston St.—226 N. St. Mary's St., San Antonio, 99000283
Burns Building, 401 E. Houston St., San Antonio, 99000284

WEST VIRGINIA

Greenbrier County

Sam Black Church, US 60, Smoot vicinity, 99000288

Jefferson County

Morgan's Grove, Roughly bounded by WV 480, WV 230 and Morgan's Grove Rd., Shepherdstown vicinity, 99000286
Sunnyside Farm, Leetown Rd., Kearneysville, 99000285

Monroe County

Pickaway, Roughly between US 219 and WV 3, Union vicinity, 99000290

Preston County

Virginia Furnace, WV 26, along Muddy Creek, Albright vicinity, 99000287

Roane County

Heck, Albert S., Mansion, WV 14, Spencer vicinity, 99000289

[FR Doc. 99–3743 Filed 2–16–99; 8:45 am]
BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; Troops to COPS II Program Solicitation.

The Department of Justice, Office of Community Oriented Policing Services, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on September 8, 1998, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until March 19, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Deputy Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC 20530.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Overview of this information:

(1) *Type of information collection:* New Collection.

(2) *The title of the form/collection:* Troops to COPS II Program Solicitation.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: None. Office of Community Oriented Policing Services, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: State, Local, or Tribal Governments.

Primary: State, Local, or Tribal Governments.

Other: None.

The information collected is used to determine eligibility for the Troops to COPS II Grant Program. The program provides funding for law enforcement

agencies for costs associated with hiring eligible military veterans as law enforcement officers.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 500 respondents at 1.5 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 750 annual burden hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: February 11, 1999.

Brenda E. Dyer,

Department Deputy Clearance, Office, United Stated Department of Justice.

[FR Doc. 99–3829 Filed 2–16–99; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act Allotments; Wagner-Peyser Act Preliminary Planning Estimates; Program Year (PY) 1999

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces States' Job Training Partnership Act (JTPA) allotments for Program Year (PY) 1999 (July 1, 1999–June 30, 2000) for JTPA Titles II–A, II–C, and III; JTPA Title II–B Summer Youth Employment and Training Program for Calendar Year (CY) 1999; and preliminary planning estimates for public employment service activities under the Wagner-Peyser (W–P) Act for PY 1999.

FOR FURTHER INFORMATION CONTACT: For JTPA allotments, contact Mr. Ron Putz, Director, Office of Employment and Training Programs, Room N4469, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone: 202–219–5229. For Employment Service planning levels contact Mr. John R. Beverly, Director, U.S. Employment Service, Room N–4470, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone: 202–219–5257. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Department of Labor (DOL or Department) is announcing Job Training Partnership Act (JTPA) allotments for Program Year (PY) 1999 (July 1, 1999–June 30, 2000) for JTPA Titles II–A, II–C, and III, and for the Summer Youth Employment and Training Program for Calendar Year (CY) 1999 for JTPA Title II–B; and, in accordance with section 6 (b)(5) of the Wagner-Peyser Act, preliminary planning estimates for public employment service (ES) activities under the W–P Act for PY 1999. The allotments and estimates are based on the appropriations for DOL for Fiscal Year (FY) 1999.

Attached is a listing of the allotments for PY 1999 for programs under JTPA Titles II–A, II–C, and III; allotments for the CY 1999 Summer Youth Employment and Training Program under Title II–B of JTPA; and preliminary planning estimates for public employment service activities under the W–P Act. The PY 1999 allotments for Titles II–A, II–C, and III and the W–P Act preliminary planning estimates, are based on the funds appropriated by the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Pub. L. 105–277, for FY 1999.

These JTPA allotments will not be updated for subsequent unemployment data. The W–P preliminary estimates are based on averages for the most current 12 months ending September 1998 for each State's share of the civilian labor force and unemployment. Final W–P Act planning estimates will be published in the **Federal Register** based on Calendar Year 1998 unemployment data.

Title II–A Allotments. The Attachment shows the PY 1999 JTPA Title II–A Adult Training Program allotments by State for a total appropriation of $955,000,000. For all States, Puerto Rico and the District of Columbia, the following data were used in computing the allotments:

—Data for areas of substantial unemployment (ASU) are monthly averages for the 12-month period, July 1997 through June 1998.

—The number of excess unemployed individuals or the ASU excess (depending on which is higher) are averages for this same 12-month period.

—The economically disadvantaged adult data (age 22 to 72, excluding college students and military) are from the 1990 Census.

The allotments for the Insular Areas, including the Freely Associated States, are based on unemployment data from 1990 Census or, if not available, the most recent data available. A 90 percent relative share ''hold-harmless'' of the PY 1998 Title II–A allotments for these areas and a minimum allotment of $75,000 were also applied in determining the allotments.

Title II–A funds are to be distributed among designated service delivery areas (SDAs) according to the statutory formula contained in section 202(b) of JTPA, as amended by Title VII, Miscellaneous Provisions, of the JTPA Amendments of 1992. This is the same formula that was used in the previous program year.

JTPA Title II–B Allotments. The Attachment shows the CY 1999 JTPA Title II–B Summer Youth Employment and Training Program allotments by State based on the total available appropriation for CY 1999 of $871,000,000. These funds are obligated as *Fiscal Year 1999* funds, not as Program Year 1999 funds.

The data used for these allotments are the same unemployment data as were used for Title II–A, except that data for the number for economically disadvantaged youth (age 16 to 21, excluding college students and military) from the 1990 Census was used. For the Insular Areas and Native Americans, the allotments are based on the percentage of Title II–B funds each received for the previous year summer program.

Title II–B funds for the 1999 Summer Program are to be distributed among designated SDAs in accordance with the statutory formula contained in section 252(b) of JTPA, as amended by Title VII, Miscellaneous Provisions, of the JTPA Amendments of 1992. The Title II–B formula is the same as for Title II–C. This is the same formula which was used in the previous program year.

JTPA Title II–C Allotments. The Attachment shows the PY 1999 JTPA Title II–C Youth Training Program allotments by State for a total appropriation of $129,965,000. For all States, Puerto Rico, and the District of Columbia, the data used in computing the allotments are the same data as were used for Title II–B allotments.

The allotments for the Insular Areas are based on unemployment data from the 1990 census or, if not available, the most recent data available. Title II–C funds are to be distributed among designated SDAs in accordance with the statutory formula contained in section 262(b) of JTPA, as amended by Title VII, Miscellaneous Provisions, of the JTPA Amendments of 1992. The Title II–C formula is the same as for Title II–B. This is the same formula which was used in the previous program year.

JTPA Title III Allotments. The Attachment shows the PY 1999 JTPA Title III Dislocated Worker Program allotments by State, for a total of

$1,405,510,000. The total includes 80 percent allotted by formula to the States and 20 percent for the National Reserve, including funds allotted to the Insular Areas.

Title III formula funds are to be distributed to State and substate grantees in accordance with the provisions in section 302(c) and (d) of JTPA, as amended.

Except for the Insular Areas, the unemployment data used for computing these allotments, relative numbers of unemployed and relative numbers of excess unemployed, are averages for the October 1997 through September 1998 period. The long-term unemployed data used were for CY 1997. Allotments for the Insular Areas are based on the PY 1999 Title II–A allotments for these areas.

A reallotment of these published Title III formula amounts, as provided for by Section 303 of JTPA, as amended, will be based on completed program year expenditure reports submitted by the States and received by October 1, 1999. The Title III allotment for each State will be adjusted upward or downward, based on whether the State is eligible to share in reallotted funds or is subject to recapture of funds.

Wagner-Peyser Act Final Planning Estimates. The Attachment shows preliminary planning estimates which have been produced using the formula set forth at section 6 of the Wagner-Peyser Act, 29 U.S.C. 49e. These allotments are based on monthly averages for the most current 12 months ending September 1998 for each State's share of the civilian labor force and unemployment. Final planning estimates will be published in the **Federal Register**, based on Calendar Year 1998 data, as required by the Wagner-Peyser Act.

The total planning estimate includes $18,000,000 of the total amount available, which is being withheld from distribution to States to finance postage costs associated with the conduct of labor exchange services for PY 1999.

The Secretary of Labor is required to set aside 3 percent of the total available funds to assure that each State will have sufficient resources to maintain statewide employment services, as required under section 6(b)(4) of the Wagner-Peyser Act. In accordance with this provision, $22,312,050, the 3 percent set-aside funds, are included in the total planning estimate. Set-aside funds are distributed in two steps to States which have lost in their relative share of resources from the prior year. In step one, States which have a CLF below one million and are below the median CLF density are maintained at 100 percent of their relative share of prior year resources. All remaining set-aside funds are distributed on a pro rata basis in step two to all other States losing in relative share from the prior year, but which do not meet the size and density criteria for step one.

Ten percent of the total sums allotted to each State shall be reserved for use by the Governor to provide performance incentives for public employment service offices, services for groups with special needs, and for the extra costs of exemplary models for delivering job services.

Signed at Washington, DC, this 10th day of February, 1999.

Raymond L. Bramucci,

Assistant Secretary of Labor for Employment and Training.

Attachment

U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION

[PY 1999 State Allotments]

State	JTPA II–A Adult training	JTPA II–B Summer youth	JTPA II–C Youth training	JTPA III Dislocated workers (Formula)	Wagner-Peyser Act*
Total	$955,000,000	$871,000,000	$129,965,000	$1,405,510,000	$761,735,000
State Total	952,468,389	853,710,021	129,620,476	1,124,408,000	741,922,032
Alabama	13,332,002	11,932,425	1,811,480	11,310,449	10,822,959
Alaska	3,372,802	3,035,450	460,889	6,053,763	8,084,754
Arizona	14,833,378	13,567,322	2,060,031	9,383,103	11,167,298
Arkansas	9,598,305	8,595,361	1,305,080	10,872,546	6,356,804
California	153,202,942	141,437,904	21,475,277	252,751,353	88,807,536
Colorado	6,401,920	5,661,874	859,686	6,515,135	9,935,372
Connecticut	8,360,632	7,432,004	1,128,459	10,137,244	8,825,777
Delaware	2,381,171	2,134,275	324,051	1,730,577	2,077,382
District of Columbia	4,409,902	3,914,580	594,372	9,278,408	3,580,609
Florida	41,604,521	35,905,728	5,451,760	37,376,186	35,941,714
Georgia	19,308,691	17,530,482	2,661,747	17,327,420	18,903,459
Hawaii	5,467,505	4,707,326	714,739	9,203,634	3,231,635
Idaho	4,043,134	3,693,860	560,859	5,142,284	6,736,039
Illinois	38,887,986	35,053,186	5,322,313	33,944,834	30,923,129
Indiana	11,790,620	10,630,568	1,613,843	9,999,244	14,568,915
Iowa	3,583,969	3,146,279	477,724	4,603,653	7,129,839
Kansas	3,769,137	3,320,937	503,570	5,107,811	6,470,824
Kentucky	15,779,990	13,651,535	2,072,786	10,071,794	9,832,744
Louisiana	20,163,665	18,225,391	2,767,259	25,508,779	10,942,496
Maine	4,095,359	3,590,727	545,199	4,094,611	4,005,859
Maryland	15,134,882	13,306,982	2,020,471	19,792,477	14,006,594
Massachusetts	13,941,489	12,507,299	1,897,283	13,467,578	15,948,373
Michigan	25,413,403	23,367,689	3,548,042	21,366,758	24,343,814
Minnesota	8,691,343	7,768,157	1,179,499	8,482,964	11,874,026
Mississippi	12,018,011	11,462,863	1,740,468	14,148,987	6,663,000
Missouri	15,336,859	13,520,219	2,052,847	13,857,280	13,908,860
Montana	3,637,993	3,090,522	469,251	4,879,006	5,504,726
Nebraska	2,381,171	2,134,275	324,051	1,997,095	6,615,599
Nevada	3,965,677	3,533,846	536,571	3,910,433	5,351,173

U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION—Continued

[PY 1999 State Allotments]

State	JTPA II–A Adult training	JTPA II–B Summer youth	JTPA II–C Youth training	JTPA III Dislocated workers (Formula)	Wagner-Peyser Act*
New Hampshire	2,381,171	2,134,275	324,051	1,583,448	2,996,307
New Jersey	25,982,597	22,873,274	3,473,025	36,304,389	21,606,939
New Mexico	9,044,618	8,188,970	1,243,375	14,447,813	6,177,271
New York	87,772,524	75,689,765	11,492,384	141,469,827	48,004,407
North Carolina	14,997,078	13,161,957	1,998,451	14,354,831	17,779,938
North Dakota	2,381,171	2,134,275	324,051	791,223	5,605,458
Ohio	38,240,941	34,106,605	5,178,589	28,150,483	28,144,557
Oklahoma	7,934,062	6,900,120	1,047,682	6,881,200	8,446,581
Oregon	12,070,623	10,688,488	1,622,891	17,668,368	9,245,584
Pennsylvania	38,242,301	33,102,886	5,026,189	36,555,932	30,462,091
Puerto Rico	53,146,634	47,284,899	7,179,520	82,314,462	10,717,138
Rhode Island	2,768,365	2,403,932	364,874	3,851,636	2,672,845
South Carolina	13,026,517	11,670,016	1,771,949	8,163,435	9,455,919
South Dakota	2,381,171	2,134,275	324,051	986,630	5,180,731
Tennessee	20,234,920	17,821,862	2,705,989	14,120,459	13,847,114
Texas	78,467,213	73,027,703	11,088,188	74,819,227	50,915,224
Utah	2,381,171	2,382,939	361,814	3,229,390	10,783,901
Vermont	2,381,171	2,134,275	324,051	1,391,491	2,426,951
Virginia	14,509,964	12,919,251	1,961,629	13,872,204	16,323,997
Washington	18,909,263	17,075,621	2,592,723	13,905,356	15,291,651
West Virginia	9,738,640	8,612,849	1,307,735	16,082,147	5,929,859
Wisconsin	8,186,644	7,268,443	1,103,607	9,944,587	13,326,797
Wyoming	2,381,171	2,134,275	324,051	1,204,056	4,019,463
American Samoa	169,022	66,121	23,002	199,534	0
Guam	475,405	806,424	64,697	561,225	348,011
Marshal Islands	358,998	23,765	48,856	423,804	0
Micronesia	535,238	56,317	72,840	631,859	0
Northern Marianas	143,413	30,931	19,517	169,302	0
Palau	109,422	9,326	14,891	129,175	0
Virgin Islands	740,113	457,253	100,721	873,718	1,464,957
Native Americans	0	15,839,842	0	0	0
National Reserve	0	0	0	278,113,383	0
Postage/Other	0	0	0	0	18,000,000

*Preliminary

[FR Doc. 99–3744 Filed 2–16–99; 8:45 am]
BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Revised Schedule of Renumeration for the UCX Program

Under section 8521(a)(2) of title 5 of the United States Code, the Secretary of Labor is required to issue from time to time a Schedule of Renumeration specifying the pay and allowances for each pay grade of members of the military services. The schedules are used to calculate the base period wages and benefits payable under the program of Unemployment Compensation for Ex-servicememembers (UCX Program).

The revised schedule published with this Notice reflects increases in military pay and allowances which were effective in January 1999.

Accordingly, the following new schedule of Renumeration, issued pursuant to 20 CFR 614.12, applies to ''First Claims'' for UCX which are effective beginning with the first day of the first week which begins after April 3, 1999.

Pay grade	Monthly rate
(1) Commissioned Officers	
0–10	$11,446
0–9	11,439
0–8	10,820
0–7	9,773
0–6	8,356
0–5	6,675
0–4	5,679
0–3	4,625
0–2	3,636
0–1	2,766
(2) Commissioned Officers With Over 4 Years Active Duty As An Enlisted Member Or Warrant Officer.	
0–3E	5,314
0–2E	4,421
0–1E	3,670
(3) Warrant Officers	
W–5	6,144
W–4	5,280
W–3	4,420
W–2	3,780
W–1	3,241
(4) Enlisted Personnel	
E–9	4,832
E–8	4,074
E–7	3,563
E–6	3,055
E–5	2,666
E–4	2,221
E–3	1,961
E–2	1,860
E–1	1,655

The publication of this new Schedule of Renumeration does not revoke any prior schedule or change the period of time any prior schedule was in effect.

Signed at Washington, DC, on February 9, 1999.

Raymond L. Bramucci,

Assistant Secretary of Labor.

[FR Doc. 99–3875 Filed 2–16–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''Hours at Work Survey.''

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before April 19, 1999.

The Bureau of Labor Statistics is particularly interested in comments with:

- Evaulate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaulate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE Washington, DC 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

It has been long recognized by experts in the field of productivity measurement and analysis that the appropriate measure of labor input for productivity statistics is hours worked rather than hours paid. The importance of this distinction was further emphasized by recommendations of the Panel to Review Productivity Statistics of the National Research Council, National Academy of Sciences. In the mid-1970s, the Bureau of Labor Statistics (BLS) established a task force to review existing programs and surveys and to determine the most efficient procedure for measuring hours worked. Based on the findings and recommendations of that task force, BLS developed the Hours at Work Survey (HWS) that has provided a unique data series for assessing productivity since 1982.

The HWS collects data for production and non-supervisory worker for each of the major industrial sectors of the nonagricultural economy on a yearly basis. Data are collected for the number of hours worked and hours paid in order to construct ratios of hours worked and hours paid, which then are used to convert hours paid data from the Current Employment Statistics (CES) program to hours at work, for use in the development of productivity statistics. Hours at work exclude paid leave (holidays, vacations, sick and personal or administrative leave such as personal business, funeral leave, and jury duty) while hours paid do not. Productivity is better measured as the ratio of output to hours spent in production. The collection of information on hours at work must be done annually because of the cyclical sensitivity of productivity measures.

II. Current Actions

Ratios of hours at work to hours paid are needed to measure labor input for productivity statistics. The ratios of hours at work to hours paid provided by this survey are used to convert hours paid, which are based on data from the CES Program, to hours at work. The resulting hours at work measures then are incorporated into the BLS labor and multifactor productivity statistics published annually and quarterly.

Based on results of a 1992 Response Analysis Survey (RAS), BLS identified some areas of concern that led to changes in wording, content, and format of instructions, and a new HWS questionnaire layout. The redesigned HWS is intended to improve the quality of the data in the survey by reducing errors due to questionnaires or from respondents and interviewers; to increase the proportion of responses obtained by mail; and to improve Computer Assisted Telephone Interviewing (CATI) follow-up data collection so that CATI data are more consistent with data obtained by mail.

The redesigned HWS questionnaire has undergone some changes to reduce the survey's response burden. HWS data now are requested only annually. The questionnaire is respondent-friendly with instructions close to the questions, an uncluttered appearance, questions that better fit respondent data sources, and questions that result in higher-quality data.

BLS is adding a RAS to the HWS to evaluate the quality of the data obtained from the survey, including the accuracy of the responses provided and the extent to which respondents have the requested information readily available.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Hours at Work Survey.

OMB Number: 1220–0076.

Affected Public: Business and other for profit.

Form	Total number of respondents	Frequency	Total annual responses	Average minutes per response	Estimated total annual burden hours
BLS 2000N	2,500	Annually	2,500	1 Hour	2,500
BLS 2000P	3,500	Annually	3,500	1 Hour	3,500
RAS	1000	One Time	1,000	15 min.	250

Form	Total number of respondents	Frequency	Total annual responses	Average minutes per response	Estimated total annual burden hours
Totals	6,000		7,000		6,250

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 11th day of February 1999.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 99–3876 Filed 2–16–99; 8:45 am]

BILLING CODE 4510–24–M

NATIONAL LABOR RELATIONS BOARD

Appointments of Individuals to Serve as Members of Performance Review Boards

5 U.S.C. 4314(c)(4) requires that the appointments of individuals to serve as members of performance review boards be published in the **Federal Register**. Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of performance review boards in the National Labor Relations Board for the rating year beginning October 1, 1997 and ending September 30, 1998.

Name and Title

Richard L. Ahearn—Regional Director, Region 9
Frank V. Battle—Deputy Director of Administration
Kenneth A. Bolles—Chief Counsel to Board Member
Mary Joyce Carlson—Deputy General Counsel
Harold J. Datz—Chief Counsel to Board Member
Robert A. Giannasi—Chief Administrative Law Judge
Wayne R. Gold—Director, Office of Representation Appeals
John E. Higgins—Acting Solicitor
Peter B. Hoffman—Regional Director, Region 34
Gloria Joseph—Director of Administration
Barry J. Kearney—Associate General Counsel, Advice
Linda R. Sher—Associate General Counsel, Enforcement Litigation
Richard A. Siegel—Associate General Counsel, Operations-Management
Elinor H. Stillman—Chief Counsel to Board Member
John J. Toner—Executive Secretary
Dennis P. Walsh—Chief Counsel to Board Member
Jeffrey D. Wedekind—Acting Chief Counsel to the Chairman

Dated: Washington, DC, February 8, 1999.

By Direction of the Board.

John J. Toner,

Executive Secretary.

[FR Doc. 99–3719 Filed 2–16–99; 8:45 am]

BILLING CODE 7545–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review and approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: NRC Form 64, ''Travel Voucher (Part 1)'', NRC Form 64A, ''Travel Voucher (Part 2)'', NRC Form 64B, ''Optional Travel Voucher (Part 2)''.

2. Current OMB approval number: None.

3. How often the collection is required: On occasion.

4. Who is required or asked to report: Contractors, consultants and invited NRC travelers who travel in the course of conducting business for the NRC.

5. The number of annual respondents: 100.

6. The number of hours needed annually to complete the requirement or request: 100.

7. Abstract: As a part of completing the travel process, the traveler must file travel reimbursement vouchers and trip reports. The respondent universe for the above forms includes consultants and contractors and those who are invited by the NRC to travel, e.g., prospective employees. Travel expenses that are reimbursed are confined to those expenses essential to the transaction of official business for an approved trip.

Submit, by April 19, 1999, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 10th day of February 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–3764 Filed 2–16–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review and approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: NRC Form 445, ''Request for Approval of Foreign Travel''.

2. Current OMB approval number: None.

3. How often the collection is required: On occasion.

4. Who is required or asked to report: Contractors and consultants who travel to foreign countries in the course of conducting business for the NRC.

5. The number of annual respondents: 30.

6. The number of hours needed annually to complete the requirement or request: 30.

7. Abstract: Information forwarded on NRC 445, Request for Approval of Foreign Travel, is supplied by consultants and contractors who travel to foreign countries in the course of conducting business for the NRC. In accordance with 48 CFR 20, ''NRC Acquisition Regulation,'' contractors traveling to foreign countries are required to complete this form. The information requested includes the traveler's identifying information, travel dates, proposed itinerary, purpose of travel, a listing of the trip coordinators, endorsements and recommendations, estimated travel cost, concurrences, and approval by the Office Director, Regional Administrator or Chairman, as appropriate.

Submit, by April 19, 1999, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 10th day of February 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–3765 Filed 2–16–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–3453–MLA–3, ASLBP No. 99–761–04–MLA]

Atlas Corporation; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and Sections 2.1201 and 2.1207 of the Commission's Regulations, a single member of the Atomic Safety and Licensing Board Panel is hereby designated to rule on petitions for leave to intervene and/or requests for hearing and, if necessary, to serve as the Presiding Officer to conduct an informal adjudicatory hearing in the following proceeding.

Atlas Corporation, Moab, UT

The hearing, if granted, will be conducted pursuant to 10 C.F.R. Part 2, Subpart L, of the Commission's Regulations, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings.'' This proceeding concerns a petition for leave to intervene submitted by a number of organizations and individuals, collectively identified as the Grand Canyon Trust. The petitioners are requesting a hearing with respect to NRC's approval of the reclamation plan of the Atlas Corporation for its site near Moab, Utah. Of particular concern to the petitioners is the effect of the plan on the environment surrounding the Atlas site, including ground water and wildlife.

The Presiding Officer designated for this proceeding is Administrative Judge Thomas S. Moore. Pursuant to the provisions of 10 CFR §§ 2.722, 2.1209, Administrative Judge Frederick J. Shon has been appointed to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents and other materials shall be filed with Judge Moore and Judge Shon in accordance with 10 CFR § 2.1203. Their addresses are:

Administrative Judge Thomas S. Moore, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Administrative Judge Frederick J. Shon, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Rockville, Maryland, this 10th day of February 1999.

G. Paul Bollwerk, III,

Acting Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 99–3763 Filed 2–16–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of February 15, 22, March 1, and 8, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of February 15

There are no meetings scheduled for the Week of February 15.

Week of February 22—Tentative

There are no meetings scheduled for the Week of February 22.

Week of March 1—Tentative

Tuesday, March 2

9:30 a.m.—Meeting with Commonwealth Edison (Public Meeting).

11:30 a.m.—Affirmation Session (Public Meeting) (If needed).

Wednesday, March 3

9:00 a.m.—Briefing by Executive Branch (Closed—Ex. 4 & 9b).

Week of March 8—Tentative

Wednesday, March 10

11:00 a.m.—Affirmation Session (Public Meeting) (If needed).

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill, (301) 415–1661.

Additional Information: By a vote of 5–0 on February 2, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Discussion of Intragovernmental Issues'' (Closed Ex. 9b) be held on February 2, and on less than one week's notice to the public.''

By a vote of 5–0 on February 8, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Discussion of Intragovernmental Issues'' (Closed Ex. 9b) be held on February 8, and on less than one week's notice to the public.''

By a vote of 5–0 on February 9, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Final Rule—Requirements for Initial Operator Licensing Examinations'' (PUBLIC MEETING) be held on February 9, and on less than one week's notice to the public.''

By a vote of 5–0 on February 11, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of (a) General Public Utilities Nuclear Corporation (Three Mile Island Nuclear Station, Unit 1), Docket No. 50–289, and (b) HYDRO RESOURCES—Intervenors' Petition To Review Presiding Officer's February 4, 1999 Memorandum And Order (Procedural Issues)'' (PUBLIC MEETING) be held on February 11, and on less than one week's notice to the public.''

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: February 11, 1999.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 99–3945 Filed 2–12–99; 10:40 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 17a–3, SEC File No. 270–026, OMB Control No. 3235–0033

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17a–3 [17 CFR 240.17a–3] under the Securities Exchange Act of 1934 requires records to be made by certain exchange members, brokers, and dealers, to be used in monitoring compliance with the Commission's financial responsibility program and antifraud and antimanipulation rules as well as other rules and regulations of the Commission and the self-regulatory organizations. It is estimated that approximately 7,769 active broker-dealer respondents registered with the Commission incur an average annual burden of 249 hours per year for an aggregate annual burden of 1,934,481 hours to comply with this rule.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques of other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: February 8, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–3769 Filed 2–16–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Existing Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 31a–2 [17 CFR 270.31a–2], SEC File No. 270–174, OMB Control No. 3235–0179

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget (''OMB'') for extension and approval.

Section 31(a) of the Investment Company Act of 1940 [15 U.S.C. 80a] (''Investment Company Act'' of ''Act'') requires registered investment companies (''funds'') and certain principal underwriters, broker-dealers, investment advisers and depositors of funds to maintain and preserve records as prescribed by Commission rules.[1] Rule 31a–1 specifies the books and records for each of these entities must be maintained.[2] Rule 31a–2, which the Commission adopted in 1944, specifies the time periods that entities must

[1] 15 U.S.C. 80a–30(a)(1).

[2] 17 CFR 270.31a–1.

retain books and records required to be maintained under rule 31a–1.[3]

Rule 31a–2 requires the following:

(i) Every fund must preserve permanently, and in an easily accessible place for the first two years, all books and records required under rule 31a–1(b)(1)–(4).[4]

(ii) Every fund must preserve for at least six years, and in an easily accessible place for the first two years: (a) all books and records required under rule 31a–1(b)(5)–(12);[5] (b) all vouchers, memoranda, correspondence, checkbooks, bank statements, canceled checks, cash reconciliations, canceled stock certificates and all schedules that support each computation of net asset value of fund shares; and (c) any advertisement, pamphlet, circular, form letter or other sales literature addressed or intended for distribution to prospective investors.

(iii) Every underwriter, broker or dealer that is a majority-owned subsidiary of a fund must preserve records required to be preserved by brokers and dealers under rules adopted under section 17 of the Securities Exchange Act (''section 17'') for the periods established in those rules.

(iv) Every depositor of any fund, and every principal underwriter of any fund other than a closed-end fund, must preserve for at least six years records required to be preserved by brokers and dealers under rules adopted under section 17 of the Exchange Act to the extent the records are necessary or appropriate to record the entity's transactions with the fund.

(v) Every investment adviser that is a majority-owned subsidiary of a fund must preserve the records required to be maintained by investment advisers under rules adopted under section 204 of the Investment Advisers Act of 1940 (''section 204'') for the periods specified in those rules.

(vi) Every investment adviser that is not a majority-owned subsidiary of a fund must preserve for at least six years records required to be maintained by registered investment advisers under rules adopted under section 204 to the extent the records are necessary or appropriate to reflect the adviser's transactions with the fund.

Rule 31a–2 permits the organizations subject to the rule reproduce and preserve many records on photographic film (''microfilm'') or on magnetic tape, disk, or other computer storage medium. If one of these media is used by or on behalf of a fund, the fund must:

(i) Arrange the records and index and file the microfilm or computer storage medium in a way that will permit immediate access and retrieval of any particular record;

(ii) Be prepared to provide promptly a microfilm enlargement or computer printout, or other copy requested by Commission representatives or the fund's directors;

(iii) Store one copy separately from the original of the microfilm or computer record for the time required to store the original.

(iv) Maintain procedures for maintaining, preserving, and providing access to records stored on computer medium in order to reasonably safeguard them from loss or destruction; and

(v) At all times have microfilm available for examination by Commission representatives or fund directors, and have available facilities for immediate, easily readable projection and production of easily readable enlargements of microfilm records.

The Commission periodically inspects the operations of all funds to ensure their compliance with the provisions of the Act and the rules under the Act. Commission staff spend a significant portion of their time in these inspections reviewing the information contained in the books and records required to be kept by rule 31a–1 and to be preserved by rule 31a–2.

The retention of records, as required by the rule, is necessary to insure that the public has access to material business and financial information about issuers of securities and regulated entities. As noted above, the Commission periodically inspects the operations of funds to ensure they are in compliance with the Act and regulations under the Act. Due to the limits on the Commission's resources, however, each fund may only be inspected at intervals of several years. In addition, under the federal securities laws, there is no time limit on the prosecution of persons engaged in certain types of conduct that violate the securities laws. For these reasons, the Commission often needs information relating to events or transactions that occurred years ago. Without the requirement to preserve books, records and other documents, the Commission would have difficulty determining whether the fund was in compliance with the law in such areas as valuation of its portfolio securities, computation of the prices investors paid and, when purchasing and selling fund shares, types and amounts of expenses the fund incurred, kinds of investments the fund purchased, actions of affiliated persons, or whether the fund had engaged in any illegal or fraudulent activities.

There are approximately 3,900 active investment companies registered with the Commission as of December 31, 1998, all of which are required to comply with rule 31a–2. Based on conversations with representatives of the fund industry, Commission staff estimate that each fund spends approximately 27.8 hours per year complying with rule 31a–2, for a total annual burden for the fund industry of approximately 108,420 hours.[6]

The estimates of burden hours are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Commission staff estimates the average cost of preserving books and records required by rule 31a–2, to be approximately $.000018 per $1.00 of net assets per year.[7] With the total net assets of all funds at about $4.5 trillion,[8] the staff estimates compliance with rule 31a–2 costs the fund industry

[3] 17 CFR 270.31a–2.

[4] 17 CFR 270.31a–1(b)(1)–(4). These include, among other records, journals detailing daily purchases and sales of securities or contracts to purchase and sell securities, general and auxiliary ledgers reflecting all asset, liability, reserve, capital, income and expense accounts, separate ledgers or records reflecting separately for each portfolio security as of the trade date, all ''long'' and ''short'' positions carried by the fund for its own account, and corporate charters, certificates of incorporation, and by-laws.

[5] 17 CFR 270.31a–1(b)(5)–(12). These include, among other records, of each brokerage order given in connection with purchases and sales of securities by the fund, all other portfolio purchases, records of all puts, calls, spreads, straddles or other options in which the fund has an interest, has granted, or has guaranteed, records of proof of money balances in all ledger accounts, files of all advisory material received from the investment adviser, and memoranda identifying persons, committees or groups authorizing the purchase or sale of securities for the fund.

[6] Commission staff surveyed several fund representatives to determine the current burden hour estimate. Although the Commission did not change its collection of information requirements in rule 31a–2, the fund representatives' estimates reflect an annual increase of 12.4 hours per fund over the burden of 15.4 hours estimated in the 1995 PRA submission. The change in annual hours is based upon an increase in the time each fund spends complying with the rule. The burden hours associated with maintaining records under rules adopted under section 204 of the Investment Advisers Act for investment advisers and under section 17 of the Exchange Act for underwriters, brokers, dealers, and depositors are addressed in the PRA submissions relating to the rules adopted under those sections.

[7] The staff estimated the annual cost of preserving the required books and records by identifying the annual costs by several funds and then relating this total cost to the average net assets of these funds during the year.

[8] See Investment Company Institute, 1998 Mutual Fund Fact Book, at 1.

approximately $81 million per year.[9] Commission staff estimates, based on conversations with representatives of the fund industry, that funds would spend at least half of this amount ($40.5 million) in any case to preserve the books and records that are necessary to prepare financial statements, meet various state reporting requirements, and prepare their annual federal and state income tax returns.[10]

These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, Mail Stop 0–4, 450 5th Street, NW., Washington, DC 20549.

Dated: February 8, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–3770 Filed 2–16–99; 8:45 am]

BILLING CODE 8010–01–M

[9] This estimate is based on the annual cost per dollar of net assets of the average fund as applied to the net assets of all funds.

[10] Several of the fund industry representatives surveyed indicated that the records required to be preserved and maintained by rule 31a–2 also are required for accounting, tax return and state reporting requirements. In the experience of two investment companies, the major portion of the cost, approximately 60 percent, is for labor related costs and approximately 40 percent is for storage related costs, however these companies were not able to allocate the percentage of costs attributable to rent or equipment.

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23689; File No. 812–11132]

American Skandia Life Assurance Corporation, et al.; Notice of Application

February 10, 1999.

AGENCY: The Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to Section 26(b) of the Investment Company Act of 1940 (the ''1940 Act'') approving certain substitutions of securities, and pursuant to Sections 6(c) and 17(b) of the 1940 Act exempting related transactions from Section 17(a) of the 1940 Act.

Summary of Application: Applicants request an order to permit certain registered unit investment trusts to substitute shares of certain registered open-end investment companies for shares of certain registered investment companies currently held by those unit investment trusts, and to permit certain in-kind redemptions of portfolio securities in connection with the substitutions.

Applicants: American Skandia Life Assurance Corporation (''ASLAC''), American Skandia Life Assurance Corporation Variable Account B (Class 1) (''Account B–1)''), American Skandia Life Assurance Corporation Variable Account B (Class 2) (''Account B–2''), American Skandia Life Assurance Corporation Variable Account B (Class (3) (''Account B–3,'' together with Account B–1 and Account B–2, ''Account B'') and American Skandia Marketing, Incorporated (''ASM'').

Filing Date: The application was filed on May 4, 1998, and amended and restated on November 6, 1998 and January 14, 1999.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 5, 1999, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o American Skandia Life Assurance Corporation, One Corporate Drive, Shelton, Connecticut 06484, Attention: Scott K. Richardson, Esq.

FOR FURTHER INFORMATION CONTACT: Ethan D. Corey, Senior Counsel, at (202) 942–0675, or Kevin M. Kirchoff, Branch Chief, at (202) 942–0672, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application may be obtained for a fee from the Public Reference Branch of the Commission, 450 5th Street, NW., Washington, DC 20549 (tel. (202) 942–8090).

Applicants' Representations

1. ASLAC is a stock life insurance company admitted to do business as an insurer in the fifty states and the District of Columbia. ASLAC offers fixed and variable annuities sold to individuals and groups (the ''Annuities'') as well as variable life insurance contracts.

2. ASLAC is a wholly-owned subsidiary of American Skandia Investment Holding Corporation, which is an indirect wholly-owned subsidiary of Skandia Insurance Company Ltd., a corporation organized under the laws of the Kingdom of Sweden.

3. Account B–1, a separate account established by ASLAC, is registered with the Commission as a unit investment trust. ASLAC currently offers seven flexible premium deferred variable annuity contracts that are funded by Account B–1: (a) American Skandia Advisors Plan (''ASAP'') including the LifeVest Personal Security Annuity (''PSA''); (b) American Skandia Advisors Plan II (''ASAPII''); (c) American Skandia XTra Credit (''ASXT'') and Stagecoach Extra Credit Variable Annuity (''Stagecoach XT''); (d) American Skandia LifeVest (''ASL'') and Stagecoach Variable Annuity Flex (''Stagecoach ASL''); (e) American Skandia Protector (''ASPro''); (f) Alliance Capital Navigator Annuity (''Alliance''); and (g) Wells Fargo Stagecoach Variable Annuity Plus (''Stagecoach VA Plus'') including Wells Fargo Stagecoach (''Stagecoach'').

4. Account B–2, a separate account established by ASLAC, is registered with the Commission as a unit investment trust. Account B–2 funds one flexible premium deferred variable annuity contract currently offered by ASLAC (American Skandia Advisors Choice (''Advisors Choice'')) and one contract that is no longer offered but continues to accept subsequent

premium payments (American Skandia Advisors Choice2000 (''Advisors Choice2'')).

5. Account B–3, a separate account established by ASLAC, is registered with the Commission as a unit investment trust. Account B–3 funds two flexible premium deferred variable annuity contracts currently offered by ASLAC: American Skandia Impact (''ASImpact''); and American Skandia Galaxy III variable annuity (''Galaxy3'') (collectively the ''Account B–3 Annuities'').

6. ASM is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc. ASM is 100% owned by American Skandia Investment Holding Corporation, which is also the direct parent of ASLAC. ASM's primary business is that of being principal underwriter-distributor of variable annuities and market value adjusted fixed annuity contracts issued by ASLAC as well as variable life insurance policies issued by ASLAC.

7. The Annuities are offered in all 50 states and the District of Columbia. The Annuities may be issued under retirement plans which qualify for federal tax benefits under Sections 401 and 408 of the Internal Revenue Code of 1986, as amended (the ''Code'') as individual retirement accounts and under other retirement plans which do not qualify under the Code.

8. Neuberger Berman Advisers Management Trust (''AMT'') is an open-end management investment company of the series type registered under the 1940 Act. It currently offers the Neuberger Berman AMT Partners portfolio (''Partners portfolio'') to Account B–1, Account B–2 and Account B–3. Neuberger Berman Management, Inc. is the investment manager for the Partners portfolio.

9. The Alliance Variable Products Series Fund, Inc. (''Alliance'') is an open-end management investment company of the series type registered under the 1940 Act. It currently offers the following fifteen series portfolios to Sub-accounts of Account B–1: U.S. Government/High Grade Securities Portfolio, Total Return Portfolio, International Portfolio, Short-Term Multi-Market Portfolio, Growth and Income Portfolio, Premier Growth Portfolio, Money Market Portfolio, North American Government Income Portfolio, Global Dollar Portfolio, Utility Income Portfolio, Global Bond Portfolio, Growth Investors Portfolio, Conservative Portfolio, Growth, and Worldwide Privatization Portfolio. Alliance Capital Management L.P. is the investment manager for each of the portfolios. Dempsey & Company International Limited is the sub-advisor to the Global Bond Portfolio.

10. The Alger American Fund is a diversified, open-end management investment company of the series type registered under the 1940 Act. It currently offers the following three portfolios through one or more of the Account B–1, Account B–2 and Account B–3 Annuities: Alger American Small Capitalization Portfolio, Alger American Growth Portfolio and Alger American MidCap Growth Portfolio. Fred Alger Management, Inc. is the investment manager of each of the portfolios.

11. American Skandia Trust (''AST'') is an open-end diversified management investment company of the series type registered under the 1940 Act. AST currently is comprised of 29 series portfolios. American Skandia Investment Services, Inc. (''ASISI'') is the investment manager for each of the portfolios.

12. ASISI currently engages the following subadvisers to subadvise the accompanying AST portfolios: Janus Capital Corporation—AST JanCap Growth, AST Janus Overseas Growth and AST Janus Small Cap Growth; Lord Abbett and Co.—AST Lord Abbett Growth & Income and AST Lord Abbett Small Cap Value; Federated Investment Counseling—AST Federated High Yield; J.P. Morgan Investment Management Inc.—AST Money Market; T. Rowe Price Associates, Inc.—AST T. Rowe Price Asset Allocation, AST T. Rowe Price International Equity, AST T. Rowe Price Natural Resources, AST T. Rowe Price International Bond and AST T. Rowe Price Small Company Value; Founders Asset Management, Inc.—AST Founders Passport; INVESCO Trust Company—AST INVESCO Equity Income; Pacific Investment Management Company—AST PIMCO total Return Bond and AST PIMCO Limited Maturity Bond; Oppenheimer Funds, Inc.—AST Oppenheimer Large Cap Growth; Putnam Investment Management, Inc.—AST Putnam Value Growth and Income and AST Putnam International Equity; American Century Investment Management, Inc.—AST Twentieth Century Strategic Balanced and AST Twentieth Century International Growth; Cohen & Steers Capital Management, Inc.—AST Cohen & Steers Realty; Stein Roe & Farnham Incorporated—AST Stein Roe Venture; Bankers Trust Company—AST Bankers Trust Enhanced 500; Marsico Capital Management, LLC—AST Marsico Capital Growth; Neuberger Berman Management Inc.—AST Neuberger Berman Mid-Cap Value and AST Neuberger Berman Mid-Cap Growth; Scudder Kemper Investments, Inc.—AST Kemper Small Cap Growth.

13. ASLAC has expressly reserved the right, on its own behalf and on behalf of Account B, to eliminate Sub-accounts, combine two or more Sub-accounts, or substitute one or more new underlying mutual funds or portfolios for others in which one or more Sub-accounts are invested.

14. ASLAC, on its own behalf and on behalf of Account B, proposes to exercise its contractual right to eliminate the Partners portfolio as an investment option under the following contracts: Account B–1 Contracts (PSA, ASAP, ASAPII, ASXT, ASL, and ASPro); Account B–2 Contracts (Advisors Choice and Advisors Choice2000); and Account B–3 Contracts (ASImpact). ASLAC proposes to substitute shares of AST Neuberger Berman Mid-Cap Value portfolio (''MicCap portfolio''), a portfolio of AST that is sub-advised by Neuberger Berman Management Inc., for shares of the Partners portfolio (''Substitution No. 1''). The Mid-Cap portfolio of American Skandia Trust is modeled after the Partners portfolio. The two portfolios have identical managers and the Mid-Cap portfolio is managed in a manner substantially similar to the Partners portfolio. The management fee of the MidCap portfolio is slightly higher than the management fee of the Partners portfolio (0.90% compared to 0.80%). However, the management fee schedule for the MicCap portfolio declines from 0.90% to 0.85% when total portfolio assets exceed $1 billion. Other expenses of the MidCap portfolio are higher than those of the Partners portfolio (0.25% compared to 0.06%).

15. ASLAC also proposes, on its behalf and on behalf of Account B–1, to replace certain portfolios of Alliance with certain portfolios of AST as investment options under the Alliance Capital Navigator contract (''Substitution No. 2'').

16. ASLAC proposes to substitute shares of the following AST portfolios for shares of the following Alliance portfolios. (a) AST PIMCO Total Return Bond portfolio (''Total Return Bond portfolio'') for the U.S. Government/ High Grade Securities portfolio; (b) AST T. Rowe Price Asset Allocation portfolio (''Asset Allocation portfolio'') for the Total Return, Growth Investors and Conservative Investors portfolios; (c) AST T. Rowe Price International Equity portfolio (''T. Rowe Price International Equity portfolio'') for the International portfolio; (d) AST Putnam International Equity portfolio (''Putnam International Equity portfolio'') for the Worldwide

Privatization portfolio; (e) AST PIMCO Limited Maturity Bond portfolio (''Limited Maturity portfolio'') for the Short Term Multi-Market portfolio; (f) AST Money Market portfolio for the Money Market portfolio; (g) AST T. Rowe Price International Bond portfolio (''International Bond portfolio'') for the North American Government Income, Global Dollar Government and Global Bond portfolios; (h) AST JanCap Growth portfolio (''JanCap Growth portfolio'') for the Growth and Premier Growth portfolios; and (i) AST Lord Abbett Growth & Income portfolio (''Lord Abbett Growth & Income portfolio'') for the Growth and Income and Utility Income portfolios.

17. The investment objective of the Total Return Bond portfolio is to maximize total return, consistent with preservation of capital by investing at least 65% of its assets in securities which may be issued by domestic or foreign entities and demoninated in U.S. dollars or foreign currencies, including securities issued or guaranteed by the U.S. Government, its agencies or instrumentalities, corporate debt securities and corporate commercial paper. The investment objective of the U.S. Government/High Grade Securities portfolio is high current income consistent with preservation of capital by investing principally in a portfolio of U.S. Government-issued or guaranteed obligations and other investment grade debt securities. The year to date total return of the Total Return Bond portfolio has been 3.42% compared to 2.96% for the U.S. Government/High Grade Securities portfolio. The total return of the Total Return Bond portfolio over the past 12 months has been 6.63% compared to 5.36% for U.S. Government/High Grade Securities portfolio. The total return of the Total Return Bond portfolio over the past three years has been 6.88% compared to 6.02% for the U.S. Government/High Grade Securities portfolio. The total annual expenses for the Total Return Bond portfolio are 0.86% (0.65% management fee and 0.21% other expenses) compared to 0.92% (0.54% management fee and 0.38% other expenses) for the U.S. Government/High Grade Securities portfolio. The U.S. Government/High Grade Securities portfolio has a 0.06% management fee waiver in place that, if eliminated, would increase total annual expenses to 0.98%.

18. The investment objective of the Asset Allocation portfolio is a high level of total return by investing primarily in a diversified group of fixed income and equity securities. The investment objective of the Total Return portfolio is a high return through a combination of current income and capital appreciation by investing in U.S. Government and agency obligations, corporate fixed-income obligations and preferred and common stocks. The investment objective of the Growth Investors portfolio is to achieve the highest total return consistent with the advisor's determination of reasonable risk by allocating varying portions of its assets among equity securities and fixed income obligations. The investment objective of the Conservative Investors portfolio is to achieve a high total return without, in the view of the advisor, undue risk of principal by allocating varying portions of its assets among investment grade, publicly traded fixed-income securities, money market instruments and publicly traded common stocks and other equity securities. In 1995, total return of the Asset Allocation portfolio was 21.94% compared to 21.64% for the Total Return portfolio, 18.79% for the Growth Investors portfolio, and 15.36% for the Conservative Investors portfolio. In 1996, total return of the Asset Allocation portfolio was 11.54% compared to 13.55% for the Total Return portfolio, 6.65% for the Growth Investors portfolio and 2.32% for the Conservative Investors portfolio. In 1997, total return of the Asset Allocation portfolio was 16.74, compared to 19.41% for the Total Return portfolio, 14.71% for the Growth Investors portfolio and 9.66% for the Conservative Investors portfolio. The total annual expenses for the Asset Allocation portfolio are 1.13% (0.85% management fee and 0.28% other expenses). The total annual expenses for the Total Return portfolio are 0.95% (0.46% management fee and 0.495% other expenses). However, the Total Return portfolio has a .16% management fee waiver. The total annual expenses for the Growth Investors portfolio are 0.95% (0.00% management fee and 0.95% other expenses). However, the entire 0.75% management fee of the Growth Investors portfolio currently is being waived. Furthermore, the Portfolio currently has 0.15% of other expenses being reimbursed. Without the management fee waiver and expense reimbursement, total portfolio expenses would be 1.85%. The total annual expenses for the Conservative Investors portfolio are 0.95% (0.30% management fee and 0.65% other expenses). However, the Conservative Investors portfolio currently has a waiver of the management fee equal to 0.45%. If the management fee waiver were to be discontinued or partially waived, total annual expenses would increase to as much as 1.40%.

19. The investment objective of both the International portfolio and the T. Rowe Price International Equity Portfolio is to seek total return on assets from long-term growth of capital with income as a secondary objective. Both portfolios invest primarily in equity securities of non-U.S. companies and tend to concentrate geographically in similar regions, including the Far East, Western Europe, Australia and Canada. Total return has been 9.54% (1995), 12.55% (1996) and -0.06% (1997) for the T. Rowe Price International Equity portfolio compared to 8.32% (1995), 5.73% (1996) and 1.88% (1997) for the International portfolio. The total annual expenses for the T. Rowe Price International Equity portfolio is 1.26% (1.00% management fee and .26% other expenses); total annual expenses for the International portfolio are 0.95% (0.04% management fee and 0.91% other expenses). However, the International portfolio has a voluntary waiver of the management fee equal to 0.96%.

20. The Worldwide Privatization portfolio seeks long term capital appreciation by investing at least 65% of its assets in equity securities that are issued by enterprises that are undergoing privatization in both established and developing economies. The Putnam International Equity portfolio also seeks capital appreciation by investing primarily in equity securities of non-U.S. companies. Total return for the Putnam International Equity portfolio was 16.50% in 1997, 8.10% in 1996 and 8.46% in 1995. For the first quarter of 1998, total return was 17.52%. Total return for the Worldwide Privatization portfolio was 9.20% in 1997, 16.84% in 1996 and 9.32% in 1995. For the first quarter of 1998, total return was 15.38%. The total annual expenses for the Putnam International Equity portfolio are 1.15% (0.88% management fee and 0.27% other expenses); the total annual expenses for the Worldwide Privatization portfolio are 0.95% (0.10% management fee and 0.85% other expenses). However, the adviser to the Worldwide Privatization portfolio currently is waiving 0.90% of its management fee, and reimbursing 0.10% of the portfolio's other expenses.

21. The investment objective of both the Short-Term Multi-Market portfolio and the Limited Maturity portfolio is to seek high current income with preservation of capital. Both invest in a diversified portfolio of high quality debt securities of varying maturates with remaining maturates of not more than three years. Both portfolios invest in

debt securities denominated in U.S. dollars as well as foreign currencies, meaning both U.S. and foreign debt securities can be held. Since May 1995 (the inception of the Limited Maturity portfolio), the total return of the two portfolios has been similar in the aggregate. Total return for the Limited Maturity portfolio was 5.95% in 1997 and 6.70% over the last 12 months; total return for the Short-Term Multi-Market portfolio was 3.13% in 1997 and 4.11% over the last 12 months. The total annual expenses for the Limited Maturity portfolio are 0.88% (0.65% management fee and 0.24% other expenses) while those for the Short-Term Multi-Market portfolio are 0.95% (0.00% management fee and 0.95% other expenses). Furthermore, the investment manager is waiving all of its management fee of the Short-Term Multi-Market Portfolio. Without this management fee waiver, the management fee would be 0.55%. In addition, other expenses are being partially reimbursed. Other expenses without reimbursement would be 1.54%.

22. The investment objectives and policies of both the Alliance Money Market portfolio and the AST Money Market portfolio are to seek high current income and maximum liquidity. The AST Money Market portfolio will only invest in obligations of financial institutions with more than $2 billion of assets, while the Alliance Money market portfolio can invest in institutions with only $1 billion of assets. The total return of the AST Money Market portfolio has been 2.18% year to date and 3.79%, 3.72%, and 3.26% for the last one, three and five year periods. The total return of the Alliance Money Market portfolio has been 2.11% year to date, and 3.68%, 3.48% and 2.94% for the last one, three and five year periods. The total annual expenses for the AST Money Market portfolio 0.60% (0.45% management fee and 0.15% other expenses). The total annual expenses for the Alliance Money Market portfolio are 0.69% (0.50% management fee and 0.19% other expenses). The adviser currently is waiving a portion of the management fee equal to 0.05% and is reimbursing a portion equal to 0.04% of the other expenses of the AST Money Market Fund.

23. The International Bond portfolio seeks to provide high current income and capital appreciation by investing in high-quality, non dollar-denominated government and corporate bonds outside the United States. The North American Government Income portfolio seeks the highest level of current income, consistent with what the adviser considers to be prudent investment risk, that is available from a portfolio of debt securities issued or guaranteed by the governments of the United States, Canada, Mexico and Argentina, their political subdivisions (including Canadian Provinces but excluding States of the United States), agencies, instrumentalities or authorities, The Global Dollar Government portfolio seeks a high level of current income. Its secondary investment objective is capital appreciation. In seeking to achieve these objectives, the portfolio will invest at least 65% of its total assets in fixed income securities issued or guaranteed by foreign governments. The Global Bond portfolio seeks a high level of return from a combination of current income and capital appreciation by investing in a globally diversified portfolio of high quality debt securities denominated in U.S. dollars and a range of foreign currencies. In 1995, total return of the International Bond portfolio was 9.95% compared to 20.9% for the North American Government Income portfolio, 21.17% for the Global Dollar Government portfolio and 22.28% for the Global Bond portfolio. In 1996, total return of the International Bond portfolio was 4.49% compared to 17.03% for the North American Government Income portfolio, 23.14% for the Global Dollar Government portfolio and 4.71% for the Global Bond portfolio. In 1997, total return of the International Bond portfolio was −4.77%, compared to 8.09% for the North American Government Income portfolio, 11.65% for the Global Dollar Government portfolio and −0.74 for the Global Bond portfolio. The total annual expenses for the International Bond portfolio are 1.11% (0.80% management fee and 0.31% other expenses). The total annual expenses for the North American Government Income portfolio are 0.95% (0.19% management fee and 0.76% other expenses). However, the North American Government Income portfolio has a 0.46% management fee waiver. The total annual expenses for the Global Dollar Government portfolio are 0.95% (0.00% management fee and 0.95% other expenses). However, the adviser to the Global Dollar Government portfolio currently is waiving its management fee of 0.75% and reimbursing 0.27% of the portfolio's other expenses. If the management fee waiver and expense reimbursement arrangement were to be discontinued or partially waived, total annual expenses would increase to as much as 1.97%. The total annual expenses for the Global Bond portfolio are 0.94% (0.44% management fee and 0.50% other expenses). However, the investment adviser is waiving a portion of the management fee equal to 0.21%. Without the management fee waiver and expense reimbursement, total portfolio expenses would be 1.15%.

24. The JanCap Growth portfolio seeks growth of capital in a manner consistent with the preservation of capital, by investing in the common stock of industries and companies that the Portfolio's sub-advisor believes are experiencing favorable demand for their products and services, and which operate in a favorable competitive and regulatory environment. The Premier Growth portfolio seeks growth of capital by pursuing aggressive investment policies in the equity securities of a limited number of large, carefully selected, American companies that, in the judgment of the portfolio's advisor, are high quality and likely to achieve superior earnings growth. The Growth portfolio seeks long-term growth of capital by investing primarily in equity securities of companies with a favorable outlook for earnings and the rate of growth of which is expected to exceed that of the United States economy over time. Year-to-date total return of the JanCap Growth portfolio is 36.44%, compared to 30.50% for the Premier Growth portfolio and 16.06% for the Growth portfolio. The total return of the JanCap Growth portfolio for the past 12 months has been 31.05%, compared to 28.44% for the Premier Growth portfolio and 22.48% for the Growth portfolio. The total return of the JanCap Growth portfolio for the past three years has been 31.55%, compared to 30.24% for the Premier Growth portfolio and 25.90% for the Growth portfolio. The total annual expenses of the JanCap Growth portfolio are 1.06% (0.88% management fee and 0.18% other expenses), compared to 1.08% (1.00% management fee and 0.08% other expenses) for the Premier Growth portfolio and 0.84% (0.75% management fee and 0.09% other expenses) for the Growth portfolio. However, the JanCap Growth portfolio currently has in place a management fee waiver equal to 0.02%. Without the fee waiver, total annual expenses of the JanCap Growth portfolio would be 1.08%.

25. The Lord Abbett Growth & Income portfolio seeks long-term growth of capital and income while attempting to avoid excessive fluctuations in market value by investing in securities which are selling at reasonable prices in relation to value. Normally, investments will be made in common stocks of seasoned companies which are expected to show above-average growth and

which the Sub-advisor believes to be in sound financial condition. The Growth and Income portfolio seeks reasonable current income and reasonable opportunity for appreciation through investments primarily in dividend-pay common stocks of good quality. The Utility Income portfolio seeks current income and capital appreciation by investing primarily in equity and fixed income securities of companies in the utilities industry. Year to date total return of the Lord Abbett Growth & Income portfolio has been 4.26% compared to 11.45% for the Growth and Income portfolio and 8.98% for the Utility Income portfolio. The total return of the Lord Abbett Growth & Income portfolio over the past 12 months has been 3.54% compared to 13.76% for the Growth and Income portfolio and 23.56% for the Utility Income portfolio. The total return of the Lord Abbett Growth & Income portfolio over the past three years has been 16.76% compared to 23.44% for the Growth and Income portfolio and 15.00% for the Utility Income portfolio. The total annual expenses for the Lord Abbett Growth & Income Portfolio are 0.93% (0.75% management fee and 0.18% other expenses), compared to 0.72% (0.63% management fee and 0.09% other expenses) for the Growth and Income portfolio and 0.95% (0.19% management fee and 0.76% other expenses) for the Utility Income portfolio. However, the Utility Income portfolio currently has a 0.56% management fee waiver in place. Without the fee waiver, total annual expenses of the Utility Income portfolio would increase to 1.51%.

26. ASLAC, on its own behalf and on behalf of Account B, also proposes to exercise its contractual right to eliminate the Alger American Small Capitalization Portfolio of The Alger American Fund (''Alger Small Capitalization portfolio'') as an investment option under the following contracts: Account B–1 Contracts (PSA, ASAP, ASAPII, ASXT, ASL, and ASPro); Account B–2 Contracts (Advisors Choice and Advisors Choice2); and Account B–3 Contracts (ASImpact). ASLAC proposes to substitute shares of AST Kemper Small Cap Growth portfolio, (Kemper Small Cap Growth portfolio''), a portfolio of American Skandia Trust that is sub-advised by Scudder Kemper Investments, Inc. for shares of the Alger Small Capitalization portfolio (''Substitution No. 3''). The investment objectives and policies of the Alger Small Capitalization and Kemper Small-Cap Growth portfolios are very similar. Both portfolios seek capital appreciation by investing in smaller companies, generally within the range of companies included within the Russell 2000 Growth Index ($1 billion to $1.5 billion capitalization). The Kemper Small-Cap Growth portfolio is a new portfolio that applicants began to offer on January 4, 1999. Its investment objective and style modeled after the Investors Fund Series Kemper Passport Small Cap Growth Fund (''Passport Fund''), an underlying mutual fund offered to various sub-accounts of Kemper Investors Life Insurance Company, and its portfolio manager will be the same as the portfolio manager of the Passport Fund. Total return of the Passport Fund has been 28.47% (1995), 26.45% (1996) and 32.55% (1997), respectively. Total return of the Alger Small Capitalization portfolio has been 42.29% (1995), 2.71% (1996) and 9.83% (1997), respectively. Total annual expenses for the Alger Small Capitalization portfolio are 0.89% (0.85% management fee and 0.04% other expenses). The management fee for the AST Kemper Small-Cap Growth portfolio will be 0.95% on the first $1 billion of portfolio assets and 0.90% on assets in excess of $1 billion. Other expenses for the AST Kemper Small-Cap Growth portfolio are estimated and annualized at 0.59%. However, the portfolio has a voluntary expense cap so that initially, total annual expenses will be 1.35%.

27. ASLAC, on its own behalf and on behalf of Account B, also proposes to exercise its contractual right to eliminate the Stein Roe Venture Portfolio of AST (''Venture portfolio'') as an investment option under the following contracts: Account B–1 Contracts (PSA, ASAP, ASAPII, ASXT, Stagecoach XT, ASL, Stagecoach ASL, ASPro, Stagecoach VA Plus and Stagecoach Variable Annuity); Account B–2 Contracts (Advisors Choice and Advisors Choice2); and Account B–3 Contracts (ASImpact). ASLAC proposes to substitute shares of the AST T. Rowe Price Small Company Value Portfolio (''Value portfolio''), that is sub-advised by T. Rowe Price Associates, Inc., for shares of the Venture portfolio (''Substitute No. 4,'' together with Substitutions 1–3, ''Substitutions''). (The portfolios to be replaced in the Substitutions are referred to collectively as the ''Replaced Portfolios.'' The portfolios to be substituted in the Substitutions are referred to collectively as the ''Substitute Portfolios.'') Both portfolios are managed with a value approach, seeking stocks of companies whose current stock prices do not appear to adequately reflect their underlying value as measured by assets, earnings, cash flow, or business franchises. The Value portfolio has been in existence since December 31, 1996. Its total return has been 0.75% for the last 12 months and 11.33% since inception. The Venture portfolio has been in existence since December 31, 1997. Since inception, its total return has been—13.51%. Total annual expenses for the Value portfolio are currently 1.16% (0.90% Management fee and 0.26% other expenses), compared to an estimated 1.34% for the Stein Roe Venture portfolio (0.95% management fee and 0.39% estimated other expenses). Estimated annual other expenses before giving effect to an expense reimbursement for the Venture portfolio are 1.24%. Applicants assert that the Venture portfolio has not been able to accumulate enough assets to make it a viable portfolio.

28. In any state, at least five days prior to the latest of: (a) the granting of the requested exemptive relief; (b) approval, if required, of the state insurance department in a particular state; or (c) the date determined by the management of ASLAC (''Measuring Date''), ASLAC will mail a written notice to all owners (''Contract Owners'') of the applicable Annuity (the ''Notices''). ASLAC will also mail the Notices to other persons who have vested interests in an Annuity. The Notices will include a current AST prospectus. Transfer request forms and prepaid postage return envelopes will be included with the Notices.

29. ASLAC distributed a prospectus supplement to Contract Owners of the respective contracts affected by Substitution No. 1 and Substitution No. 2 on or about March 10, 1998. The supplement notified Contract Owners of those proposed substitutions and the impact on the availability of the Replaced Portfolios. In addition, the May 1, 1998 prospectus for each of those Contracts disclosed the proposed substitutions and discussed the rights of Contract Owners. On December 31, 1998, ASLAC distributed a prospectus supplement to Contract Owners affected by Proposed Substitution No. 3 and Proposed Substitution No. 4 regarding the proposed substitutions and the rights of Contract Owners.

30. As of the Measuring Date, any initial allocations or internal transfers to any Sub-account offering investment in the Replaced Portfolios (''Replaced Sub-accounts'') will automatically be allocated to the corresponding Sub-account offering investment in the corresponding Substitute Portfolio (''Substitute Sub-account''). Replaced Sub-accounts will not be eligible for any

new allocations or transfers on or after the Measuring Date.

31. Up to and including the 59th calendar day, or if the 59th calendar day is not a business day, then the following business day, after the Measuring Date, (the ''Voluntary Transfer End Date''), Contract Owners may transfer Account Value out of any Replaced Sub-account to any other available Sub-account without transfer fees. Furthermore, any such transfer will not be counted toward the limitation on transfers, currently 12 per year in each of the Annuity contracts.

32. The next business day after the Voluntary Transfer End Date (the 60th calendar day or the next business day following the 60th calendar day) will be the ''Automatic Selection Date.'' On the Automatic Selection Date, any Account Value that remains allocated to each Replaced Sub-account will be automatically transferred to the corresponding Substitute Sub-account. During the 30 days following the Substitution Date, Contract Owners may transfer value out of any Substitute Sub-Account to any other available Sub-account with no transfer fees.

Applicants' Legal Analysis and Conditions

1. Section 26(b) of the 1940 Act provides that it shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution; and the Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act. Section 26(b) protects the expectation of investors that the unit investment trust will accumulate shares of a particular issuer and is intended to insure that unnecessary or burdensome sales loads, additional reinvestment costs or other charges will not be incurred due to unapproved substitutions of securities.

2. Applicants request an order pursuant to Section 26(b) of the 1940 Act approving the Substitutions. Applicants represent that the purposes, terms, and conditions of the Substitutions are consistent with the protection for which Section 26(b) was designed. Applicants assert that Substitution No. 1 would benefit investors because it would result in greater administrative efficiency and enhanced oversight of the MidCap portfolio by ASLAC while continuing to provide Contract Owners with a ''best-in-class'' money manager and the identical fund objective and investment policies and restrictions as those of the Partners portfolio. Applicants assert that Substitution No. 2 would benefit investors because it would consolidate insufficiently sized Subaccounts, which would help reduce the high fixed costs of compliance and reporting of Alliance and that segment of Account B–1 dedicated to the Alliance Capital Navigator annuity. Following the Substitutions, Alliance Capital Navigator Contract Owners would be able to reallocate account value to any of the variable investment options available through American Skandia Trust in addition to the three remaining portfolios of the Alliance Variable Products Series. Furthermore, Alliance Capital Navigator Contract Owners are likely to benefit from economies of scale in most cases as a result of Substitution No. 2. Substitution No. 3, like Substitution No. 1, would result in greater administrative efficiency and enhanced oversight of the Substitute Portfolio by ASLAC. Applicants assert that oversight has been a particular issue with the Replaced Portfolio, which has experienced significant ''style drift'' within its objective and investment style. The Replaced Portfolio's securities holdings have drifted toward a midsize capitalization. In addition, its performance has not been satisfactory when compared to other small capitalization portfolios in its universe or when compared to the most relevant index, the Russell 2000. Substitution No. 4 would benefit investors by replacing a portfolio that has not been able to generate enough asset flow to make it a viable portfolio and over its limited tenure, has had performance that was below its peer group.

3. Any investor who does not want his or her assets allocated to the Substitute Portfolios would be able to transfer assets to any one of the other sub-accounts available under their annuity without charge prior to the Automatic Selection Date or up to 30 days after the Automatic Selection Date.

4. Applicants represent that the Substitutions will be effected at net asset value in conformity with Sections 22(c) and 22(g) of the 1940 Act and Rule 22c–1 thereunder. The Substitutions may be effected primarily for cash, but also may involve partial redemptions in-kind of securities. The use of in-kind redemptions in conformity with Section 22(g) of the 1940 Act will reduce the brokerage expenses involved in the Substitutions. The in-kind redemptions will be affected to the extent consistent with the investment objectives and any applicable diversification requirements.

5. ASLAC or the investment adviser of the Substitute Portfolios (or sub-advisor where applicable) will assume the transfer and custodial expenses and legal and accounting fees incurred with respect to the Substitutions. Contract Owners will not incur any fees or charges as a result of the transfer of account values from any portfolio. All contract level fees and charges and the asset-based fees (morality, expense risk and administration fees) deducted by the separate account will remain the same after the Substitutions. Applicants represent that the rights and benefits of Contract Owners or ASLAC's obligations, under any Annuity will not be altered in any way. Applicants further represent that the Substitutions are designed to avoid any adverse effects upon the tax benefits available to Contract Owners; the Substitutions are designed not to give rise to any current Federal income tax to policyholders.

6. Section 17(a)(1) of the 1940 Act prohibits any affiliated person or an affiliate of an affiliated person, of a registered investment company, from selling any security or other property to such registered investment company. Section 17(a)(2) of the 1940 Act prohibits such affiliated persons from purchasing any security or other property from such registered investment company.

7. Section 17(b) of the 1940 Act authorizes the Commission to issue an order exempting a proposed transaction from Section 17(a) if: (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the 1940 Act.

8. Applicants request an order pursuant to Sections 6(c) and 17(b) of the 1940 Act exempting the in-kind redemptions from the provisions of Section 17(a) of the 1940 Act.

9. Applicants represent that the terms of the Substitutions are reasonable and fair and do not involve overreaching on the part of any person concerned. The Substitutions would be effected at the net asset value of the securities involved and the interests of Contract Owners would not be diluted. In-kind redemptions would alleviate some of the expenses involved with the Substitutions and only would be used to the extent they are consistent with the investment objectives and applicable diversification requirements of the affected portfolios. All in-kind redemptions would be conducted in a

manner conforming with the conditions of Rules 17a–7 under the 1940 Act.

10. Applicants represent that the Substitutions and the in-kind redemptions are consistent with the policies of each investment company involved and the general purposes of the 1940 Act, and comply with the requirements of Section 17(b).

Conclusion

Applicants assert that, for the reasons summarized above, the requested order approving the Substitutions and exempting the in-kind redemptions should be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23688; 812–11134]

The Infinity Mutual Funds, Inc., et al.; Notice of Application

February 10, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') granting an exemption from section 17(a) and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

Summary of Application: Applicants seek an order to permit certain registered investment companies (a) to pay BISYS Fund Services Limited Partnership (''BISYS'') and certain of its affiliated persons fees for acting as lending agent with respect to a securities lending program (''Program''); (b) to lend portfolio securities to affiliated broker-dealers; (c) to deposit the cash collateral received in connection with the Program and other uninvested cash in one or more joint trading accounts; and (d) to use cash collateral received in connection with the Program to purchase shares of affiliated private investment company, the BISYS Securities Lending Trust (the ''Trust'').

Applicants: The Infinity Mutual Funds, Inc. (the ''Fund''), BISYS, BISYS Fund Services Ohio, Inc. (''BISYS Ohio''), the Trust, and First American National Bank (''First American'').

Filing Dates: The application was filed on May 5, 1998. Applicants have agreed to file an amendment, the substance of which is reflected in this notice, during the notice period.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 8, 1999, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549. The Fund, the Trust, BISYS Ohio, and BISYS, 3435 Stelzer Road, Columbus, Ohio 43219–3035. First American, 315 Deaderick Street, Nashville, Tennessee 37237.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Senior Counsel, at (202) 942–0572, or Christine Y. Greenlees, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch, 450 5th Street, NW, Washington, DC 20549 (telephone (202) 942–8090).

Applicants' Representations

1. The Fund, a Maryland corporation, is an open-end management investment company registered under the Act and consists of twenty-five separate series (the ''Portfolios''). Twenty-three of the Portfolios are advised by First American. BISYS serves as each Portfolio's administrator and distributor and BISYS Ohio serves as each Portfolio's transfer and dividend disbursing agent and full accountant. BISYS and BISYS Ohio are wholly-owned subsidiaries of The BISYS Group, Inc.

2. The Trust is a Massachusetts business trust and will initially consist of two portfolios (each an ''Investment Fund'') advised by the Adviser (defined below). Each Investment Fund will value its securities based on the amortized cost method and comply with rule 2a–7 under the Act.

3. Trust shares will be offered to the Lending Funds and other participants in the Program in reliance on the exemption provided by Regulation D under the Securities Act of 1933. The Trust intends to operate as a private investment company excluded from the definition of ''investment company'' pursuant to section 3(c)(1) or (7) of the Act. Shares in the Trust will have no voting rights and may not be transferred without the consent of the trustee. BISYS will be the sole trustee (''Trustee'') and will oversee the Trust's operations and also will provide accounting and administrative services to the Trust. BISYS and the Adviser will be compensated by the Trust for their services. Trust shares will not be subject to any sales load, redemption fee, asset-based sales charge or service fee.

4. Applicants request that relief be extended to (a) any registered investment company or series of a registered investment company for which BISYS, or any person controlling, controlled by or under common control with BISYS, now or in the future serves as principal underwriter, administrator, or distributor and for which First American or any person controlling, controlled by, or under common control with First American (each, an ''Adviser'') now or in the future serves as investment adviser (collectively with the Fund, the ''Funds''); (b) BISYS and any person controlling, controlled by or under common control with BISYS, including registered broker-dealers that are controlling, controlled by or under common control with BISYS (the ''Affiliated Broker-Dealers''); and (c) the Trust and any other private investment company organized by BISYS or any person controlling, controlled by, or under common control with BISYS and advised by an Adviser (any future private investment companies are also the ''Trust'' and their series the ''Investment Funds'').[1]

5. Several of the Portfolios currently participate in the Program administered by BISYS Ohio. Each Fund that participates in the Program (''Lending Fund'') will be permitted to lend its portfolio securities, and its prospectus will disclose that it may engage in portfolio securities lending. Currently, BISYS Ohio provides administrative services in connection with the Program and engages an independent third-party to act as securities lending agent for the Lending Funds. In the future, BISYS Ohio may act as securities lending agent

[1] All existing entities that currently intend to rely on the requested relief have been named as applicants. Any existing and future entity may rely on the order in the future only in accordance with the terms and conditions in the application.

(collectively with the third-party lending agents, the ''Lending Agent'').

6. Under the Program, the Lending Agent enters into agreements with borrowers (''Borrowers'') to lend them portfolio securities of the Fund (''Securities Loan Agreements''). Pursuant to the Securities Loan Agreements, the Lending Agent delivers Lending Fund's portfolio securities to Borrowers in exchange for cash collateral or other types of collateral, such as U.S. government securities. Cash collateral is delivered in connection with most loans. The Lending Agent invests the cash collateral on behalf of the Lending Funds in accordance with specific parameters set forth in the Securities Loan Agreements. These guidelines include permissible investment of the cash collateral as well as a list of eligible types of investments.

7. With respect to securities loans that are collateralized by cash, the Borrower is entitled to receive a fixed cash collateral fee based on the amount of cash held as collateral. The Lending Fund in this case is compensated on the spread between the net amount earned on the investment of the cash collateral and the Borrower's cash collateral fee. In the case of collateral that is other than cash, the Lending Fund receives a loan fee paid by the Borrower equal to a percentage of the market value of the loaned securities as specified in the Securities Loan Agreement.

8. The applicants request relief to permit: (a) the Funds to pay and BISYS Ohio or any person controlling, controlled, or under common control with BISYS, to accept fees based on a share of the proceeds derived by the Funds from their securities lending transactions, for services as Lending Agent; (b) the Funds to deposit cash collateral received in connection with their securities lending activities and other uninvested cash [2] in one or more joint trading accounts or subaccounts (the ''Joint Accounts''); (c) the Funds to use some or all of the cash collateral received in connection with their securities lending activities to purchase shares of the Trust and the Trust to redeem shares from the Funds; and (d) the Funds to lend portfolio securities to Affiliated Broker-Dealers.

[2] Uninvested cash may occur in connection with a Fund maintaining cash reserves to meet redemption requests or as a result of late day purchases by shareholders.

Applicants' Legal Analysis

A. Payment of Fees by Lending Funds to BISYS Ohio

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of or principal underwriter for a registered investment company or any affiliated person of such person or principal underwriter, acting as principal, from effecting any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan, in which the investment company participates. Section 2(a)3 of the Act defines an affiliated person to include any person directly or indirectly controlling, controlled by, or under common control with, the other person. Because BISYS Ohio and BISYS (the Funds' principal underwriter) are each wholly-owned subsidiaries of The BISYS Group, Inc., they may be deemed to be under ''common control'' and therefore affiliated persons, and BISYS Ohio may be deemed an affiliated person of the principal underwriter for each Lending Fund. Accordingly, applicants request an order under section 17(d) and rule 17d–1 under the Act to the extent necessary to permit each Lending Fund to pay and BISYS Ohio, or any other person controlling, controlled by, or under common control with BISYS, to accept fees that are based on a share of the proceeds derived by the Funds in connection with services provided as Lending Agent.

2. Rules 17d–1 permits the SEC to approve a proposed joint transaction covered by the terms of section 17(d). In determining whether to approve a transaction, the SEC is to consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation of the investment companies is on a basis different from or less advantageous than that of the other participants.

3. Applicants propose that each Lending Fund adopt the following procedures to ensure that the proposed fee arrangement and the other terms governing the relationship with BISYS Ohio, as Lending Agent, will meet the standards of rule 17d–1:

(a) In connection with the approval of BISYS Ohio as lending agent for a Lending Fund and implementation of the proposed fee arrangement, a majority of the board of directors (the ''Board'') (including a majority of the directors who are not ''interested persons'' within the meaning of the Act (the ''Disinterested Directors'') of the Lending Fund will determine that (i) the contract with BISYS Ohio is the best interests of the Lending Fund and its shareholders; (ii) the services to be performed by BISYS Ohio are appropriate for the Lending Fund; (iii) the nature and quality of the services provided by BISYS Ohio are at least equal to those offered and provided by others; and (iv) the fees for BISYS Ohio's services are fair and reasonable in light of the usual and customary charges imposed by others for services of the same nature and quality.

(b) Each Lending Fund's contract with BISYS Ohio for lending agent services will be reviewed annually and will be approved for continuation only if a majority of the Board (including a majority of the Disinterested Directors) makes the findings referred to in paragraph (a) above.

(c) In connection with the initial implementation of the proposed fee arrangement whereby BISYS Ohio will be compensated as lending agent based on a percentage of the revenue generated by a Lending Fund's participation in the Program, the Board will obtain competing quotes with respect to lending agent fees from at least three independent lending agents to assist the Board in making the findings referred to in paragraph (a) above.

(d) The Board, including a majority of the Disinterested Directors, will (i) determine at each regular quarterly meeting that the loan transactions during the prior quarter were effected in compliance with the conditions and procedures set forth in the application and (ii) review no less frequently than annually the conditions and procedures for continuing appropriateness.

(e) Each Lending Fund will (i) maintain and preserve permanently in an easily accessible place a written copy of the procedures and conditions (and any modifications) described in the application or otherwise followed in connection with lending securities pursuant to the Program and (ii) maintain and preserve for a period not less than six years from the end of the fiscal year in which any loan transaction pursuant to the Program occurred, the first two years in an easily accessible place, a written record of each loan transaction setting forth a description of the security loaned, the identity of the person on the other side of the loan transaction, the terms of the loan transaction, and the information or materials upon which the determination was made that each loan was made in accordance with the procedures set forth above and the conditions to the application.

B. Investment of Uninvested Cash and Cash Collateral in the Joint Accounts

1. The Funds propose to deposit some or all of their cash collateral and other uninvested cash in the Joint Accounts established at the Funds' custodian for the purpose of investing in one or more of the following: (a) Repurchase agreements ''collateralized fully'' as defined in rule 2a–7 under the Act, (b) U.S. dollar denominated commercial paper and (c) any other short-term money market instruments that constitute ''Eligible Securities'' (as defined in rule 2a–7 under the Act) that are not subject to contractual or other restrictions on resale (collectively, ''Short-Term Investments''). Each Fund (the Funds that are eligible to participate and elect to participate in the Joint Accounts are the ''Participants'') will have the option to participate in any Joint Account on the same basis as every other Fund, subject to and in conformity with its own investment objectives, policies, and restrictions. The Adviser will be responsible for investing funds held by the Joint Accounts. BISYS, under the supervision of the Adviser, will be responsible for establishing accounting and control procedures, operating the Joint Accounts in accordance with the procedures described in the application, and ensuring fair treatment of the Participants.

2. As noted above, section 17(d) and rule 17d–1 generally prohibit joint transactions involving registered investment companies and certain of their affiliates unless the SEC has approved the transaction. Applicants state that the Participants, by participating in the proposed Joint Accounts, and the Adviser and BISYS, by administering the proposed Joint Accounts, could be deemed to be ''joint participants'' in a transaction within the meaning of section 17(d) of the Act. In addition, the proposed Joint Accounts could be deemed to be a ''joint enterprise or other joint arrangement'' within the meaning of rule 17d–1 under the Act. Accordingly, applicants request an order under section 17(d) and rule 17d–1 under the Act to permit them to engage in the proposed Joint Accounts. Applicants believe that the requested relief meets the standards of rule 17d–1 for the reasons described below.

3. Applicants state that any repurchase agreements entered into through the Joint Accounts will comply with the terms of Investment Company Act Release No. 13005 (Feb. 2, 1983). Applicants acknowledge that they have a continuing obligation to monitor the SEC's published statements on repurchase agreements, and represent that repurchase agreement transactions will comply with future positions of the SEC to the extent that such positions set forth different or additional requirements regarding repurchase agreements. In the event that the SEC sets forth guidelines with respect to other Short-Term Investments made through the Joint Accounts, the investments will comply with those guidelines.

4. The Joint Accounts may comprise multiple joint subaccounts, if BISYS or the Adviser determines that multiple joint subaccounts are necessary or advisable to provide the Funds with additional flexibility and choice in the Short-Term Investments in which they choose to invest. Joint subaccounts may also be established for other reasons, such as to facilitate monitoring of individual Funds' interests in different Short-Term Investments, consistent with the variations in investment restrictions and policies among the various Funds.

5. Each Fund's decision to invest in a Joint Account will be solely at the option of the Adviser within the standards and procedures established by that Fund's Board, and no Fund will be required to maintain any minimum balance. To eliminate any possibility of one Fund using any part of the balance of a Joint Account credited to another Fund, no Fund will be allowed to create a negative balance in any Joint Account for any reason. Each Fund will retain sole rights to all of the cash and cash collateral invested by it in the Joint Accounts, including interest payable on the cash or cash collateral.

6. Applicants believe that each Participant's investment in a Joint Account would not be subject to the claims of creditors, whether brought in bankruptcy, insolvency or other legal proceeding, or any other Participant. Each Fund's liability on any Short-Term Investment through the Joint Account will be limited to its own interest in the Short-Term Investment.

7. Applicants believe that the proposed method of operating the Joint Accounts will not result in any conflicts of interest between any of the Funds or between any Funds and BISYS or the Adviser. Applicants state that although BISYS will likely gain some benefit through the administrative convenience of the Funds investing in Short-Term Investments on a joint basis, and may experience some reduction in clerical costs, the Funds will be the primary beneficiaries because of the increased efficiencies realized through use of the Joint Accounts, the possible increase in rates of return available, and, for some Funds, the opportunity to invest in Short-Term Investments. Neither the Adviser nor BISYS will receive any additional fees from the Funds for the administration of the Joint Accounts.

C. Investment of Cash Collateral in Shares of the Trust

1. As noted above, section 17(d) and rule 17d–1 generally prohibit joint transactions involving registered investment companies and certain of their affiliates unless the SEC has approved the transaction. Applicants state that the Funds (by purchasing and redeeming Trust shares), BISYS as principal underwriter of the Funds at the same time that the Funds' cash collateral is invested in Trust shares, and as Trustee and service provider to the Trust at the same time that the Trust sells Trust shares to and redeems them from the Funds, BISYS Ohio (by acting as Lending Agent), and the Trust (by selling shares to and redeeming them for the Funds) could be deemed to be participants in a joint enterprise or arrangement within the meaning of section 17(d) of the Act and rule 17d–1 under the Act.

2. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, or any affiliated person of such affiliated person (''Second-Tier Affiliate''), acting as principal, to sell or purchase any security to or from such investment company. BISYS is the principal underwriter for the Lending Funds. The Trust may be considered an affiliated person of BISYS under section 2(a)(3) of the Act because of BISYS' role as Trustee. In addition, since the Adviser is the investment adviser to the Trust and a Lending Fund, the Adviser would be an affiliated person of the Lending Funds under section 2(a)(3) and the Trust would be a Second-Tier Affiliate of the Lending Funds. Accordingly, the sale of shares of the Trust to the Fund, and the redemption of such shares from the Fund, would be prohibited under section 17(a).

3. Section 17(b) of the Act authorizes the SEC to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each registered investment company concerned, and the proposed transaction is consistent with the general policy of the Act. Section 6(c) under the Act permits the SEC to exempt any person or transaction from

any provision of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies of the Act.

4. Applicants request an order under sections 6(c), 17(b), and 17(d) of the Act and rule 17d–1 under the Act to permit the Lending Funds to purchase and redeem Trust shares from the Trust and the Trust to sell and redeem Trust shares to and from the Lending Funds. Applicant state that a Fund's cash collateral will be invested in a particular Investment Fund only if the Investment Fund invests in the types of instruments that the Lending Fund has authorized for the investment of its cash collateral. Each Investment Fund will comply with rule 2a–7 under the Act.

5. Applicants state that the Lending Funds will purchase, hold and redeem Trust shares on the same basis as any other holder of Trust shares. Applicants assert that by investing cash collateral in Trust shares as proposed, the Lending Funds will be able to achieve liquidity, diversification, and quality of investments at a cost that is expected to be lower than the cost typically incurred when investing in a registered investment company. Further, each Investment Fund will comply with sections 17(a), (d), (e), and 18 of the Act as if the Trust were a registered open-end investment company. With respect to all redemption requests made by a Lending Fund, the Trust will comply with section 22(e) of the Act.

D. Lending of Portfolio Securities to Affiliated Broker-Dealers

1. Section 17(a)(3) of the Act makes it unlawful for any affiliated person of or principal underwriter for a registered investment company or their Second-Tier Affiliates, acting as principal, to borrow money or other property from the registered investment company. Section 2(a)(3) of the Act defines the term affiliated person of another person to include any person under common control with that other person. Under section 2(a)(3) of the Act, BISYS and the Affiliated Broker-Dealers may be deemed to be persons under common control and thus affiliated persons of each other. Accordingly, for purposes of section 17(a)(3) of the Act, the Affiliated Broker-Dealers may be affiliated persons of the Funds' principal underwriter, BISYS, and thus prohibited from borrowing portfolio securities from the Funds.

2. As noted above, section 17(d) and rule 17d–1 generally prohibit joint transactions involving registered investment companies and certain of their affiliates unless the SEC has approved the transaction. The Funds request relief under sections 6(c) and 17(b) of the Act exempting them from section 17(a)(3) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit the Funds to lend portfolio securities to Affiliated Broker-Dealers. Applicants state that the Funds seek to diversify the Borrowers to whom they lend in order to ensure the stability and efficiency of the Program. Applicants submit that because only a few Borrowers may seek to borrow a particular security at a given time, a prohibition on lending to Affiliated Broker-Dealers could disadvantage a Fund.

3. Applicants state that each loan to an Affiliated Broker-Dealer by a Fund will be made with a spread that is no lower than that applied to comparable loans to unaffiliated broker-dealers.[3] In this regard, applicants state that at least 50% of the loans made by the Funds, on an aggregate basis, will be made to unaffiliated Borrowers. Moreover, all loans will be made with spreads that are no lower than those set forth in a schedule of spreads established by the Board of each Fund, including a majority of the Disinterested Directors. All transactions with the Affiliated Broker-Dealers will be reviewed periodically by the officers of the Funds. Quarterly, officers of the Funds and the Lending Agent will present reports on the lending transactions to the Board, including a majority of the Disinterested Directors, for their review.

Applicant's Conditions

Applicants agree that any order of the SEC granting the requested relief will be subject to the following conditions:

A. General

1. Any Fund or Investment Fund that relies on the requested order will be advised by the Adviser and distributed or administered by BISYS, or any entity controlling, controlled by, or under common control with BISYS.

2. The securities lending program of each Fund will comply with all present and future applicable SEC and staff positions regarding securities lending arrangements.

B. Joint Accounts

1. The Joint Accounts will be established as one or more separate cash accounts on behalf of the Funds at a custodian. Each Fund may deposit, daily, all or a portion of its uninvested cash and cash collateral into the Joint Accounts.

2. Cash in the Joint Accounts will be invested in one or more Short-Term Investments, as directed by the Adviser. Short-Term Investments that are repurchase agreements will have a remaining maturity of 60 days or less and other Short-Term Investments will have a remaining maturity of 90 days or less, each as calculated in accordance with rule 2a–7 under the Act. Cash collateral in a Joint Account would be invested in Short-Term Investments which have a remaining maturity of 397 days or less, as calculated in accordance with rule 2a–7 under the Act.

3. All Short-Term Investments invested in through the Joint Accounts will be valued on an amortized cost basis. Each Fund that relies upon rule 2a–7 under the Act will use the dollar-weighted average maturity of a Joint Account's Short-Term Investments for the purpose of computing that Fund's average portfolio maturity with respect to the portion of the cash held by it in that Joint Account.

4. The Fund's Adviser, fund accountant, pricing agent, and custodian will maintain records (in conformity with section 31 of the Act and the rules and regulations under the Act) documenting, for any given day, the Fund's aggregate investment in the Joint Account and the Fund's *pro rate* share of each Short-Term Investment made through the Joint Account.

5. Short-Term Investments held in a Joint Account generally will not be sold prior to maturity except if: (a) the Adviser believes the investment no longer presents minimal credit risks; (b) the investment no longer satisfies the investment criteria of all Participants in the investment because of downgrading or otherwise; or (c) in the case of a repurchase agreement, the counterparty defaults. Any Short-Term Investment (or any fractional portion thereof), however, may be sold on behalf of some or all Participants prior to the maturity of the investment if the cost of such transactions will be borne solely by the selling Participants and the transaction will not adversely affect other Participants participating in that Joint Account. In no case would an early termination by less than all Participants be permitted if it would reduce the principal amount or yield received by other Participants in a particular Joint Account or otherwise adversely affect the other Participants. Each Participant in a Joint Account will be deemed to have consented to such sale and

[3] A ''spread'' is the compensation earned by a Fund, as lender, from a securities loan. The compensation is in the form either of a lending fee payable by the borrower to the Fund (where non-cash collateral is posted) or of the excess—retained by the Fund—over a rebate rate payable by the Fund to the borrower (where cash collateral is posted and then invested by the Fund).

partition of the investments in the Joint Account.

6. Short-Term Investments held through a Joint Account with a remaining maturity of more than seven days, as calculated pursuant to rule 2a–7 under the Act, will be considered illiquid and will be subject to the restriction that a Fund may not invest more than a % or, in the case of a money market fund, more than 10% (or, in either such case, such other percentage as set forth by the SEC from time to time) of its net assets in illiquid securities, if the instrument, or the Fund's fractional interest in such instrument, cannot be sold pursuant to the preceding condition.

7. To assure that there will be no opportunity for one Fund to use any part of a balance of any Joint Account credited to another Fund, no Fund will be allowed to create a negative balance in any Joint Account for any reason, although each Fund will be permitted to draw down its *pro rata* share of the entire balance at any time. Each Fund's decision to invest through the Joint Accounts shall be solely at the option of that Fund and the Adviser (within the standards and procedures established by the Fund's Board), and no Fund will be obligated, in any way, to invest through, or to maintain any minimum balance in, the Joint Accounts. In addition, each Fund will retain the sole rights to any of the cash, including interest payable on the cash, invested by that Fund through the Joint Accounts.

8. Each Fund will participate in the income earned or accrued in the Joint Account through which it is invested on the basis of its percentage share of the total balance of the Joint Account on that day.

9. The Adviser will be responsible for investing funds held by the Joint Accounts. BISYS will administer the Joint Accounts in accordance with the standards and procedures established by the Board of the Funds as part of its duties under the existing or any future administrative contract with the Funds. Neither BISYS nor the Adviser will receive additional or separate fees for advising or administering the Joint Accounts.

10. The administration of the Joint Accounts will be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g–1 under the Act.

11. The Board of each Fund investing in Short-Term Investments through the Joint Accounts will adopt procedures pursuant to which the Joint Accounts will operate, which procedures will be reasonably designed to provide that requirements of the requested order will be met. In addition, not less frequently than annually, the Board will evaluate the Joint Account arrangements, will determine whether the Joint Accounts have been operated in accordance with the adopted procedures, and will authorize a Fund's continued participation in the Joint Accounts only if the Board determines that there is a reasonable likelihood that such continued participation would benefit that Fund and its shareholders.

12. The Joint Accounts will not be distinguishable from any other accounts maintained by a fund with a custodian except that cash from various Funds will be deposited in the Joint Accounts on a commingled basis. The Joint Accounts will not have a separate existence with indicia of a separate legal entity. The sole function of the Joint Accounts will be to provide a convenient way of aggregating individual transactions that would otherwise require daily management and investment by each Fund of its cash.

13. All transactions in Short-Term Investments that are repurchase agreements will be effected in accordance with Investment Company Act Release No. 13005 (February 2, 1983) and with future positions taken by the Commission or the staff by rule, release, or no-action letter.

C. The Trust

1. A majority of the Board of the Lending Fund (including a majority of the Disinterested Directors), will initially and at least annually thereafter determine that the investment of cash collateral in Trust shares is in the best interests of the shareholders of the Lending Fund.

2. Investment in Trust shares by a particular Lending Fund will be consistent with that Lending Fund's investment objectives and policies.

3. Each Investment Fund will comply with rule 2a–7 under the Act. Each Investment Fund will value its shares, as of the close of business on each business day, using the ''amortized cost method,'' as defined in rule 2a–7 under the Act, to determine the net asset value per share of the Investment Fund. The Trust will, subject to approval of the Trustee, adopt the monitoring procedures described in rule 2a–7(c)(7) under the Act and the Adviser will comply with these procedures and take any other actions as are required to be taken pursuant to these procedures.

4. The Trust will comply as to each Investment Fund with the requirements of sections 17(a), (d) and (e), and 18 of the Act as if the Trust were a registered open-end investment company. With respect to all redemption requests made by a Lending Fund, the Trust will comply with section 22(e) of the Act. The Adviser shall, subject to approval by the Trustee, adopt procedures designed to ensure that the Trust complies with sections 17(a), (d) and (e), 18, and 22(e) of the Act. The Adviser also will periodically review and periodically update as appropriate such procedures and will maintain books and records describing such procedures, and maintain the records required by rules 31a–1(b)(1), 31a–1(b)(2)(ii), and 31a–1(b)(9) under the Act. All books and records required to be kept pursuant to this condition will be maintained and preserved for a period of not less than six years from the end of the fiscal year in which any transaction occurred, the first two years in an easily accessible place, and will be subject to examination by the SEC and the staff.

5. The net asset value per share with respect to Trust shares will be determined separately for each Investment Fund by dividing the value of the assets belonging to that Investment Fund, less the liabilities of that Investment Fund, by the number of Trust shares outstanding with respect to that Investment Fund.

6. The Trust shares will not be subject to a sales load, redemption fee, any asset-based sales charge or service fee (as defined in rule 2830(b)(9) of the Conduct Rules of the National Association of Securities Dealers, Inc.).

7. Each Lending Fund will purchase and redeem trust shares as of the same time and at the same price, and will receive dividends and bear its proportionate share of expenses on the same basis, as other shareholders of the Trust. A separate account will be established in the shareholder records of the Trust for the account of each Lending Fund.

8. The Investment Fund will not acquire any securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

D. Lending to Affiliated Broker-Dealers

1. The Funds, on an aggregate basis, will make at least 50% of their portfolio securities loans to unaffiliated Borrowers.

2. The total value of securities loaned to any one broker-dealer on the approved list will be in accordance with a schedule to be approved by the Fund's Board, but in no event will the total value of securities lent to any one Affiliated Broker-Dealer exceed 10% of the net assets of the Fund, computed at market.

3. A Fund will not make any loan to an Affiliated Broker-Dealer unless the

income attributable to such loan fully covers the transaction costs incurred in making such loan.

4. (a) All loans will be made with spreads no lower than those set forth in the schedule of spreads which will be established and may be modified from time to time by each Fund's full Board and by a majority of the Disinterested Directors (''Schedule of Spreads'').

(b) The Schedule of Spreads will set forth rates of compensation to the Fund that are reasonable and fair and that are determined in light of those considerations set forth in the application.

(c) The Schedule of Spreads will be uniformly applied to all Borrowers of the Fund's portfolio securities, and will specify the lowest allowable spread with respect to a loan of securities to any Borrower.

(d) If a security is loaned to an unaffiliated Borrower with a spread higher than the minimum set forth in the Schedule of Spreads, all comparable loans to an Affiliated Broker-Dealer will be made at no less than the higher spread.

(e) The Fund's Program will be monitored on a daily basis by an officer of the Fund who is subject to section 36(a) of the Act. This officer will review the terms of each loan to an Affiliated Broker-Dealer for comparability with loans to unaffiliated Borrowers and conformity with the Schedule of Spreads, and will periodically, and at least quarterly, report his or her findings to the Fund's Board, including a majority of the Disinterested Director.

5. The Fund's Board, including a majority of the Disinterested Directors, (a) will determine no less frequently than quarterly that all transactions with Affiliated Broker-Dealers effected during the preceding quarter were effected in compliance with the requirements of the procedures adopted by the Board and the conditions of the requested order and that such transactions were conducted on terms which were reaonsable and fair; and (b) will review no less frequently than annually such requirements and conditions for their continuing appropriateness.

6. The Funds will maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) which are followed in lending securities and shall maintain and preserve for a period of not less than six years from the end of the fiscal year in which any loan occurs, the first two years in an easily accessible place, a written record of each loan setting forth the number of shares loaned, the face amount of the securities loaned, the fee received (or the rebate rate remitted), the identity of the Borrower, the terms of the loan and any other information or materials upon which the finding was made that each loan made to an Affiliated Broker-Dealer was fair and reasonable and that the procedures followed in making such loan were in accordance with the other undertakings set forth in the application.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–3774 Filed 2–16–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23690; 812–11504]

Sweig/Glaser Advisers, et al.; Notice of Application

February 11, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under section 6(c) of the Investment Company Act of 1940 (the ''Act'') from section 15(a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the implementation, without prior shareholder approval, of certain sub-advisory agreements in connection with the acquisition (''Acquisition'') of Zweig/Glaser Advisers (''Zweig/Glaser'') and Zweig Advisors Inc. (''Zweig,'' collectively with Zweig/Glaser, the ''Sub-advisers'') by Phoenix Investment Partners, Ltd. (''Phoenix''). The order would cover a period of up to 150 days following the later of: (i) the date on which the Acquisition is consummated (the ''Acquisition Date''), or (ii) the date on which the requested order is issued (but in no event later than July 23, 1999) (''Interim Period''). The order also would permit the Sub-advisers to receive all fees earned under the New Sub-advisory Agreements during the Interim Period following shareholder approval.

Applicants: The Sub-Advisers.

Filing Dates: The application was filed on February 9, 1999. Applicants have agreed to file an amendment to the application, the substance of which is reflected in this notice, during the notice period.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 4, 1999, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

Addresses: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 900 Third Avenue, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: Janet M. Grossnickle, Attorney-Adviser, at (202) 942–0526, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. (202–942–8090).

Applicants' Representations

1. Zweig/Glaser, a New York general partnership, is an investment adviser registered under the Investment Advisers Act of 1940 (''Adivsers Act''). Zweig, a Delaware corporation, is an investment adviser registered under the Advisers Act.

2. Zweig/Glaser serves as the sub-adviser for the Zweig Asset Allocation Fund and the Sweig Equity (Small Cap) Fund (the ''Funds''), each a series of Legends Funds, Inc., an open-end management investment company registered under the Act.

3. Zweig serves as the sub-adviser for the Strategic Equity Series and the Multiple Allocation Series (the ''Portfolios''), each a series of the GCG Trust, an open-end management investment company registered under the Act. The Funds and the Portfolios are each referred to as an ''Investment Company'' and collectively, as the ''Investment Companies.'' The sub-advisory agreements currently in effect between the Sub-advisers and the Investment Companies are each referred to as an ''Existing Sub-advisory Agreement'' and collectively, as the ''Existing Sub-advisory Agreements.''

4. On December 15, 1998, the Sub-advisers entered into an acquisition

agreement with Phoenix, under which the Sub-advisers will be acquired by Phoenix. Phoenix, a Delaware corporation, is a diversified financial services company, and is an investment adviser registered under the Advisers Act. Applicants expect the Acquisition to be consummated on or about March 1, 1999.

5. Applicants state that the Acquisition will result in an assignment and thus the automatic termination of the Existing Sub-advisory Agreements. Applicants request an exemption to permit the implementation, without prior shareholder approval, of new sub-advisory agreements with respect to the Investment Companies (''New Sub-advisory Agreements''). The requested exemption will cover the Interim Period of not more than 150 days beginning on the later of the Acquisition Date or the date of the issuance of the requested order and continuing with respect to each Investment Company through the date on which each New Sub-advisory Agreement is approved or disapproved by the Investment Company's shareholders, but in no event after July 23, 1999. Applicants represent that the New Sub-advisory Agreements will contain substantially identical terms and conditions as the Existing Sub-advisory Agreements, except in each case for the effective dates, the termination dates, the escrow provisions discussed below and terms relating to a servicing agreement between the Sub-advisers and Zweig Consulting LLC (''Servicing Agreement''), a company formed by Dr. Martin E. Zweig.[1] Applicants further represent that each Investment Company will receive, during the Interim Period, the same investment sub-advisory services, provided in the same manner by substantially the same personnel, at the same fee levels as it received prior to the Acquisition.

6. Applicants state that the board of directors of each Investment Company (the ''Board'') will meet prior to the Applicant Date to consider approval of the New Sub-advisory Agreements and submission of the New Sub-advisory Agreements to the shareholders for their approval, in accordance with section 15(c) of the Act.[2] Applicants state that the Board will evaluate whether the terms of the New Sub-advisory Agreements, including the escrow provisions described below, are in the best interests of the Investment Companies and their shareholders.

7. Applicants submit that it will not be possible to obtain shareholder approval of the New Sub-advisory Agreements in accordance with section 15(a) of the Act prior to the Acquisition Date. Applicants state that each Investment Company will promptly schedule a meeting of shareholders to vote on the approval of the New Sub-advisory Agreements to be held within 150 days after the commencement of the Interim Period, but in of event later than July 23, 1999.

8. Applicants also request an exemption to permit the Sub-advisers to receive from each Investment Company all fees earned under the New Sub-advisory Agreements during the Interim Period, if and to the extent the New Sub-advisory Agreements are approved by the shareholders of each Investment Company.[3] Applicants propose to enter into an escrow arrangement with an unaffiliated financial institution (the ''Escrow Agent''). Advisory fees payable by the Investment Companies to the Sub-advisers under the New Sub-advisory Agreements during the Interim Period will be paid into an interest-bearing escrow account maintained by the Escrow Agent. The amounts in the escrow account (including interest earned on such paid fees) will be paid to the Sub-advisers only after the New Sub-advisory Agreements are approved by the shareholders of the relevant Investment Company in accordance with section 15(a) of the Act. If shareholder approval is not obtained and the Interim Period has ended, the Escrow Agent will return the escrow amounts to the appropriate Investment Company. Before the release of any such escrow amounts, the Boards will be notified.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as an investment adviser of a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of such registered investment company. Section 15(a) of the Act further requires that such written contract provide for its automatic termination in the event of its ''assignment.'' Section 2(a)(4) of the Act defines ''assignment'' to include any direct or indirect transfer of an investment advisory or investment sub-advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

2. Applicants state that the Acquisition will result in a transfer of a controlling block of outstanding voting securities or ownership of each of the Sub-advisers. Accordingly, applicants state that an assignment of the Existing Sub-advisory Agreements will occur and the Existing Sub-advisory Agreements will terminate by their own terms.

3. Rule 15a–4 under the Act provides, in pertinent part, that if an investment advisory contract with a registered investment company is terminated by an assignment, the adviser may continue to serve for 120 days under a written contract that has not been approved by the company's shareholders, provided that: (a) the new contract is approved by that company's board of directors (including a majority of the non-interested directors); (b) the compensation to be paid under the new contract does not exceed the compensation that would have been paid under the contract most recently approved by the company's shareholders; and (c) neither the adviser nor any controlling person of the adviser ''directly or indirectly receives money or other benefit'' in connection with the assignment. Applicants state that they cannot rely on rule 15a–4 because of the benefits to the Sub-advisers and their shareholders arising from the Acquisition.

[1] Applicant state that as of the Acquisition date, Dr. Zweig, an officer of each of the Sub-advisers, and certain of his associates will not continue their positions with the Sub-advisers. Applicants further state that Dr. Zweig and his associates have been involved in the Sub-adviser's provision of services to the Investment Companies. Applicants represent that the Sub-Advisers will enter into the Servicing Agreement with a company formed by Dr. Zweig, Zweig Consulting LLC, in order for the Investment Companies to continue to receive the services of Dr. Zweig and his associates. Applicants state that Zweig/Glaser is controlled by Eugene J. Glaser and Zweig Management Corp. Applicants further state that Zweig Management Corp., Zweig, and Zweig Consulting LLC are controlled by Dr. Zweig Management Corp., Zweig, and Zweig Consulting LLC are controlled by Dr. Zweig. Applicants represent that all fees that will be payable to Zweig Consulting LLC in connection with the services provided to the Investment Companies will be paid by the Sub-advisers. Zweig Consulting LLC, a New York limited liability company, is an investment adviser registered under the Advisers Act. All references to New-Sub-advisory Agreements in this notice include the Service Agreement.

[2] Applicants acknowledge that, to the extent that the Board of any Investment Company cannot meet to approve a New Sub-advisory Agreement prior to the Acquisition Date, such Investment Company may not rely on the exemptive relief requested in this application.

[3] Applicants state that if the Acquisition Date precedes issuance of the requested order, the Sub-advisers will continue to serve as sub-advisers after the Acquisition Date (and prior to the issuance of the order) in a manner consistent with their fiduciary duty to continue to provide advisory services to the Investment Companies even though approval of the New Sub-advisory Agreements has not yet been secured from the Investment Companies' shareholders. Applicants also state that the Investment Companies may be required to pay, with respect to the period until receipt of the order, no more than the actual out-of-pocket costs to the Sub-advisers for providing advisory services.

4. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard.

5. Applicants note that the form and timing of the Acquisition were determined in response to a number of factors beyond the scope of the Act and substantially unrelated to the Investment Companies. Applicants state that it is not possible for the Investment Companies to obtain shareholder approval of the New Sub-advisory Agreements prior to the Acquisition Date. Applicants submit that the Boards will meet to approve the New Sub-advisory Agreements prior to the Acquisition Date, in accordance with section 15(c) under the Act, and the shareholders of the Investment Companies will be further protected by the establishment of the escrow account described in the application.

6. Applicants submit that the Sub-advisers will take all appropriate steps to ensure that the scope and quality of advisory and other services provided to the Investment Companies during the Interim Period will be at least equivalent to the scope and quality of services previously provided. During the Interim Period, the Sub-advisers will operate under the New Sub-advisory Agreements, which will have substantially the same terms and conditions as the respective Existing Sub-advisory Agreements, except for the effective dates, the escrow provisions and terms relating to the Servicing Agreement. Applicants state that the fees to be paid during the Interim Period will not be greater than the fees currently paid by the Investment Companies. Applicants also assert that allowing the implementation of the New Sub-advisory Agreements will ensure that there will be no disruption to the investment program and the delivery of related services to the Investment Companies because the personnel that provide such services to the Investment Companies will remain substantially the same as before the Acquisition Date.

Applicant's Conditions

Applicants agree as conditions to the issuance of the exemptive order requested by the application that:

1. The New Sub-advisory Agreements to be implemented following the commencement of the Interim Period will be substantially the same as the respective Existing Sub-advisory Agreements, except for the effective dates, the termination dates, the escrow provisions and terms relating to the Servicing Agreement.

2. Fees payable to a Sub-adviser by an Investment Company for the period covered by the order will be maintained during the Interim Period in an interest-bearing escrow account (including interest earned on such amounts), and will be paid: (a) to the Sub-adviser after the requisite approval by shareholders is obtained; or (b) in the absence of such approval by the end of the Interim Period, to the relevant Investment Company.

3. Each Investment Company will promptly schedule a meeting of shareholders to vote on approval of the New Sub-advisory Agreements to be held within 150 days after the commencement of the Interim Period, but in no event later than July 23, 1999.

4. The Sub-advisers, not the Investment Companies, will pay the costs of preparing and filing the application and the costs relating to the solicitation of approval of the Investment Companies' shareholders of the New Sub-advisory Agreements.

5. The Sub-advisers will take all appropriate steps to ensure that the scope and quality of advisory and other services provided to the Investment Companies during the Interim Period will be at least equivalent, in the judgment of the respective Boards, including a majority of the directors who are not ''interested persons'' of the Investment Companies, as defined in section 2(a)(19) of the Act (''Disinterested Directors''), to the scope and quality of services they previously provided. In the event of any material change in the personnel providing services pursuant to the New Sub-advisory Agreements, the Sub-advisers will apprise and consult with the Boards of the affected Investment Companies in order to assure that the Boards, including a majority of the Disinterested Directors, are satisfied that the services provided will not be diminished in scope or quality.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–3830 Filed 2–16–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of February 15, 1999.

A closed meeting will be held on Thursday, February 18, 1999, at 11:00 a.m. An open meeting will be held on Friday, February 19, 1999, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A), and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Hunt, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, February 18, 1999, at 11:00 a.m., will be:

Institution and settlement of administrative proceedings of an enforcement nature.

Institution and settlement of injunctive actions.

Formal order of investigation.

Opinions.

The subject matter of the open meeting scheduled for Friday, February 19, 1999, at 10:00 a.m., will be:

(1) Consideration of whether to adopt revisions to Rule 701 of the Securities act to remove the $5 million aggregate offering price ceiling and set the maximum amount of securities that may be sold in a 12-month period to a more appropriate limit based upon the size of the issuer. The revised rule also would require specific disclosure from all issuers that sell more than $5 million in a 12-month period and harmonize the definition of consultant and advisor to the definition in Form S–8. For further information, please contact Richard K. Wulff at (202) 942–2950.

(2) Consideration of whether to adopt amendments to Securities Act Form S–8, the streamlined form companies use to register sales of securities to their employees, and Securities Act Form S–3. The amendments would: (a) restrict the use of Form S–8 for the sale of securities to consultants and advisors; (b) allow Form S–8 to be used for the

exercise of employee benefit plan stock options by family members of employee optionees; and (c) make Form S–3 available to register securities to be received upon the exercise of outstanding warrants and options, whether or not transferable. The Commission also will consider proposing further amendments to Form S–8 designed to deter abuse of that form to register securities for capital-raising or promotional purposes. For further information, please contact Anne Krauskopf at (202) 942–2900.

(3) Consideration of whether to repropose amendments to Rule 15c2–11 under the Securities Exchange Act of 1934. Rule 15c2–11 governs the publication of quotations by broker-dealers for over-the-counter securities. For further information contact: Irene A. Halpin or Florence E. Harmon at (202) 942–0772. At times, changes in Commission priorities require alterations in the schedule of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: February 12, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–3950 Filed 2–12–99; 11:14 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: [To Be Published].

STATUS: Open Meeting.

PLACE: 450 Fifth Street, N.W. Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: .

CHANGE IN THE MEETING: Additional Item.

The following item will be added to the open meeting scheduled for Friday, February 19, 1999, at 10:00 a.m.:

Consideration of whether to adopt revisions to Rule 504 of the Securities Act to limit the circumstances where general solicitation is permitted and freely tradable securities may be issued in reliance on the rule. These amendments are part of the Commission's comprehensive agenda to deter microcap fraud. For further information, please contact Richard K. Wulfff or Barbara C. Jacobs at (202) 942–2950.

Commissioner Hunt, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: February 12, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–4026 Filed 2–12–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41032; File No. SR–DTC–99–01]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Allowing DTC to Charge a Low Volume Tender Offer Processing Fee

February 9, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 1, 1999, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–DTC–99–01) as described in Items I and II below, which items have been prepared primarily by DTC.[2] The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will allow DTC to charge a processing fee of $2,700 in connection with low volume tender offers processed through DTC's facilities.[3] The low volume tender offer processing fee will be payable by the offeror in advance of DTC's processing the offer.

[1] 15 U.S.C. 78s(b)(1).

[2] On February 5, 1999, DTC supplemented the proposed rule change. Letter from Carl H. Urist, Deputy General Counsel, DTC (February 5, 1999).

[3] A low volume tender offer is an offer in which the offeror is seeking to purchase for cash up to 5% of the outstanding shares of an equity issue or any amount of a debt issue. Low volume tender offers do not include exchange offers or offers by the issuer of the target security.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

When DTC receives offering materials from an offeror making a tender offer, DTC first reviews the materials to ascertain the basic terms of the offer such as the target security, the identities of the offeror and its agent, the offer price, and any limitations on the quantity of the securities to be purchased. DTC also discusses the terms of the offer with the offeror or its agent. If DTC determines that the offer can be processed through its facilities, DTC announces the offer to its participants by entering the basic terms of the offer into DTC's Reorganization Inquiry for Participants service, an electronic announcement system. DTC and the offeror's agent enter into an agreement to make the offer eligible for the processing of acceptances by participants at DTC through DTC's Automated Tender Offer Program.

In charging fees in connection with tender offers, DTC's overall objective is to recover the cost of processing the offers. At present, DTC recovers its costs in processing a tender mostly through the fees paid by its participants when they accept the offer. The fee for accepting a tender at DTC is currently $31.10 per acceptance submitted by a participant. (DTC will soon propose revisions to its fee schedule, and the tender offer acceptance fee will increase to $32.30.) Participants have been willing to pay DTC's tender offer acceptance fee because of the efficiencies and cost savings for participants that result from accepting tender offers by book-entry delivery at DTC instead of through the delivery of physical certificates outside of DTC.

In the 2,127 tender offers processed by DTC in 1997 (which included 39 low volume tender offers), participants submitted an average of 85 acceptances

[4] The Commission has modified the text of the summaries prepared by DTC.

in each offer. The fees paid by the participants that submitted acceptances in those offers covered DTC's costs in processing the offers. Recently, DTC has processed an increased number of low volume tender offers.[5] In the 170 low volume tender offers processed by DTC in the month of December 1998, participants submitted an average of only 1.5 acceptances in each offer. As a result, the fees paid by the participants that submitted acceptances in those low volume tender offers fell short of covering DTC's costs in processing the offers.

In order to recover its costs in processing low volume tender offers, DTC will require an offeror making such an offer to pay the low volume tender offer processing fee of $2,700 to DTC before DTC announces the offer to its participants or conducts any other processing activities for the offer. The proposed low volume tender offer processing fee of $2,700 is intended to make up for the current difference in revenues to DTC between regular tender offers and low volume tender offers. The low volume tender offer processing fee plus participants' tender offer acceptance fees from the average of 1.5 acceptances in low volume tender offers should approximately equal participants' tender offer acceptance fees from the average of 85 acceptances in regular tender offers. The fee, which can be paid by certified check or by wire payment, will apply to each security issue for which the offer is making a low volume tender offer. DTC will continue to charge the tender offer acceptance fee to any participants who submit acceptances in such offers.

DTC will apply the low volume tender offer processing fee to all low volume tender offers that DTC announces on or after the date of this order. However, if DTC receives more than $27,000 from the tender offer acceptance fees paid by participants in a low volume tender offer, DTC will refund the entire low volume tender offer processing fee of $2,700 to the offeror after the conclusion of the offer.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[6] and the rules and regulations thereunder applicable to DTC since the low volume tender offer fee equitably charges most of DTC's costs in processing such offers to the offerors making the offers and not to DTC's participants, which rarely submit acceptances in such offers.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments from DTC participants or others have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(D) of the Act[7] requires that the rules of a clearing provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. The Commission believes that the proposed rule change is consistent with DTC's obligations under the Act because the low volume tender offer processing fee should allow DTC to more equitably allocate and recover its costs in processing low volume tender offers.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. Approving prior to the thirtieth day after publication of notice will allow DTC to immediately implement the low volume tender offer acceptance fee which should allow DTC to immediately avoid incurring unrecovered processing costs that would otherwise be passed on to its participants.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–99–01 and should be submitted by March 10, 1999.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–99–01) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–3772 Filed 2–16–99; 8:45 am]

BILLING CODE 8010–01–M

[5] In 1997, DTC processed 39 low volume tender offers, in 1998, DTC processed 537 low volume tender offers. To date in 1999, DTC has received offering materials for over 300 low volume tender offers.

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78q–1(b)(3)(D).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41022; File No. SR–GSCC–99–01]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Regarding the Expansion of GSCC's GCF Repo Service

February 5, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 27, 1999, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will expand GSCC's GCF Repo service to allow participating dealers to engage in GCF Repo trading with participating dealers that use different clearing banks.[2]

[1] 15 U.S.C. 78s(b)(1).

[2] The complete text of the proposed rule change is attached as Exhibit A to GSCC's filing, which is available for inspection and copying at the Commission's public reference room and through GSCC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The GCF Repo service allows GSCC members that are not interdealer brokers (''dealers'') to trade general collateral repos involving U.S. Government securities throughout the day without requiring trade for trade settlement on a delivery versus payment basis (''DVP'').[4] GSCC believes that the GCF Repo service will bring benefits to the Government securities marketplace, including increased liquidity, enhanced ability to trade general collateral repos (which are an alternative collateral source for dealers), risk protection, and access to a broad spectrum of industry participants.

GSCC believes that these benefits cannot be fully realized without an after-hours interbank securities allocation.[5] The need for an after-hours allocation arises because not all of the GSCC dealer members clear at the same bank. As a result of free and unrestricted trading among all GSCC members, on any particular business day net securities and cash positions with respect to GFC Repo transactions will most likely not balance within each clearing bank. That is, the net securities borrowed position will not match the net securities loaned position across dealers intrabank (although these positions will balance across the clearing banks).

GSCC's proposed solution is to introduce the GCF Repo service in phases. On November 23, 1998, GSCC implemented the GCF Repo service within each participating clearing bank separately. As a result, a participating dealer can trade GCF Repos only with other participating dealers that use the same clearing bank. This first phase allows GSCC and its members to monitor the GCF Repo process in operation on a limited basis and to detect processing inefficiencies before the service is made more widely available. However, GSCC believes that this first phase results in a fragmented marketplace that has limited liquidity, both of which run contrary to the goals of the GCF Repo project.

Therefore, GSCC now seeks to expand the GCF Repo service to allow a participating dealer to engage in GCF Repo trading with dealers that use different clearing banks. GSCC has enlisted the assistance of its two clearing banks, The Bank of New York (''BONY'') and The Chase Manhattan Bank (''Chase''), to establish an alternate mechanism to permit an after-hours movement of cash and securities between the clearing banks.

Each clearing bank will establish a special clearance account in the name of GSCC to be used exclusively to effect this after-hours movement of securities. At the end of each business day, GSCC will establish the net GCF Repo settlement position and collateral allocation obligation or entitlement for each participating dealer with respect to each generic CUSIP number, and each clearing bank will make all possible internal cash and securities GCF Repo deliveries between GSCC and the dealers that clear at that bank. At this stage, the clearance customers of one of the two banks—assume that it is Chase—will be in an aggregate net funds borrower position (or aggregate net short securities position), and the customers of the other bank—assume that it is BONY—will be in aggregate net funds lender position (or aggregate net long securities position). GSCC will then instruct Chase to allocate to the special GSCC clearance account at Chase securities in an amount equal to the net short securities position.

GSCC will establish on its own books and records two ''securities accounts'' as defined in Article 8 of the New York Uniform Commercial Code (''NYUCC''), one in the name of Chase and one in the name of BONY. The Chase securities account will be comprised of the securities in GSCC's special clearance account maintained by BONY, and the BONY securities account will be comprised of the securities in GSCC's special clearance account maintained by Chase. GSCC will appoint Chase as its agent to maintain GSCC's books and records with respect to the BONY securities account, and GSCC will appoint BONY as its agent to maintain GSCC's books and records with respect to the Chase securities account.

The BONY and Chase securities accounts will enable the bank that is in the net long securities position to receive securities after the close of the securities Fedwire. Once the bank has received the securities, it can credit them by book-entry to a GSCC account and then to the dealers that clear at that bank that are net long securities in connection with GCF repo trades. The establishment of the securities accounts by GSCC also will give each clearing bank a ''securities entitlement'' under Article 8 of the NYUCC and the comfort of relying on GSCC as its ''securities intermediary'' as defined in Article 8 of NYUCC.

In the example described above, Chase will transmit to BONY a description of the securities in the BONY securities account. Based on this transmission, BONY will transfer funds equal to the aggregate net funds borrowed position to a demand deposit account in the name of GSCC that is maintained by Chase. Upon receipt of the funds by Chase, Chase will release any liens it may have on the special GSCC clearance account, and GSCC will release any liens it may have on the BONY securities account (both these accounts being comprised on the same securities). BONY will credit the securities in the BONY securities account to GSCC's regular GCF Repo clearance account at BONY, and BONY will further credit these securities to dealers participating in the GCF Repo service that clear at BONY and that are in a net long securities position. Thus, GSCC, Chase, and BONY will have accomplished an after-hours movement of securities between clearing banks that will enable dealers that clear at both banks to trade GCF Repo with each other.

All securities and funds movements occurring on a particular business day between the participating clearing banks will be reversed the next business day within a timeframe established by GSCC and the clearing banks. This timeframe will correspond to the timeframe already established by GSCC's Rule 20 for the reversal of GCF Repo transactions between GSCC and its participating netting members.

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[3] The Commission has modified the text of the summaries prepared by GSCC.

[4] For a detailed description of the GFC Repo Service, refer to Securities Exchange Act Release No. 40623 (October 30, 1998) 63 FR 59831 (November 5, 1998) [File No. SR–GSCC–98–02] (order approving proposed rule).

[5] GSCC is discussing with the staff of the Federal Reserve Bank of New York (''FRBNY'') and the Board of Governors of the Federal Reserve System (''Board of Governors'') reopening the securities Fedwire for a brief period of time after the normal 3:30 p.m. close to accomplish after-hours DVP movement of securities and cash between the clearing banks. However, GSCC understands that an after-hours DVP window cannot be established until FRBNY completes its Year 2000 systems changes and the Board of Governors issues a proposal for public comment and determines that establishing such a window is in the public interest.

GSCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act[6] and the rules and regulations thereunder because it will broaden access to GSCC's existing GCF Repo service for members and increase market liquidity.

(B) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not yet been solicited or received. Members will be notified of the rule change filing, and comments will be solicited by an Important Notice. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of GSCC. All submissions should refer to File No. SR–GSCC–99–01 and should be submitted by March 10, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–3771 Filed 2–16–99; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78q–1.

[7] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

Office of Defense Trade Controls

[Public Notice No. 2981]

Notifications to the Congress of Proposed Commercial Export Licenses

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to section 36(c) and in compliance with section 36(e) of the Arms Export Control Act (22 U.S.C. 2776).

EFFECTIVE DATE: As shown on each of the three letters.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State ((703) 875-6644).

SUPPLEMENTARY INFORMATION: Section 38(e) of the Arms Export Control Act mandates that notifications to the Congress pursuant to section 36(c) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: December 9, 1998.

William J. Lowell,

Director, Office of Defense Trade Controls.

BILLING CODE 4710–25–P

United States Department of State

Washington, D.C. 20520

SEP 22 1998

Dear Mr. Speaker:

Pursuant to section 36 (c) and (d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Manufacturing License Agreement with Spain.

The transaction contained in the attached certification involves the (overseas) manufacture of M60A3 Laser Tank Fire Control Systems.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 105-98

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

SEP 22 1998

Dear Mr. Speaker:

Pursuant to section 36(c) and (d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Manufacturing License Agreement with the United Kingdom.

The transaction contained in the attached certification involves the overseas manufacture of Airborne TOW Missile Fire Control Systems.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 107-98

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

SEP 22 1998

Dear Mr. Speaker:

Pursuant to section 36(c)&(d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Manufacturing License Agreement with Japan.

The transaction described in the attached certification involves the manufacture and support of Model T56-A-14 engines for P-3C aircraft used by the Japan Defense Agency.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 122-98

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

[FR Doc. 99–3847 Filed 2–16–99; 8:45 am]
BILLING CODE 4710–25–C

DEPARTMENT OF STATE

[Public Notice No: 2971]

Advisory Committee on Historical Diplomatic Documentation; Notice of Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet in the Department of State, 2201 ''C'' Street NW, Washington, DC, March 18–19, 1999, in Conference Room 1105. Prior notification and a valid photo are mandatory for entrance into the building. One week before the meeting the public must notify Gloria Walker, Office of Historian (202–663–1124) providing their date of birth, social security number and telephone number.

The Committee will meet in open session from 1:30 p.m. through 4:30 p.m. on the afternoon of Thursday, March 18, 1999. The remainder of the Committee's sessions from 9:00 a.m. until 5:00 p.m. on Friday, March 19, 1999 will be closed in accordance with Section 10(d) of the Federal Advisory Committee Act (P.L. 92–463). The agenda calls for discussions involving consideration of matters not subject to public disclosure under 5 U.S.C. 552b(c)(1), and that the public interest requires that such activities be withheld from disclosure.

Questions concerning the meeting should be directed to William Z. Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC, 20520, telephone (202) 663–1123, (e-mail *pahistoff@panet.us-state.gov).*

Dated: February 8, 1999.

William Z. Slany,

Executive Secretary.

[FR Doc. 99–3846 Filed 2–16–99; 8:45 am]

BILLING CODE 4710–11–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending February 5, 1999

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–99–5077

Date Filed: February 4, 1999

Parties: Members of the International Air Transport Association

Subject:

PTC3 0268 dated December 11, 1998
r1–10
PTC3 0270 dated December 11, 1998
r11–19
PTC3 0271 dated December 11, 1998
r20–28
PTC3 0273 dated December 11, 1998
r29–34
PTC3 0275 dated December 11, 1998
r35–42
PTC3 0277 dated December 11, 1998
r43–50
PTC3 0278 dated December 11, 1998
r51–55
PTC3 0280 dated December 11, 1998
r56–67
PTC3 0281 dated December 11, 1998
r68–82
PTC3 0282 dated December 11, 1998
r83–103
PTC3 0284 dated December 11, 1998
r104–115
PTC3 0285 dated December 11, 1998
r116–124
PTC3 0286 dated December 11, 1998
r125–165
PTC3 Resolutions (excluding US/US Territories)
Tables
PTC3 Fares 0072 dated December 22, 1998
PTC3 Fares 0073 dated December 22, 1998
PTC3 Fares 0074 dated December 22, 1998
PTC3 Fares 0075 dated December 22, 1998
Corrections
PTC3 0289 dated January 5, 1999
PTC3 0291 dated January 5, 1999
Intended effective date: April 1, 1999.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–3841 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending February 5, 1999

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–99–5062.

Date Filed: February 2, 1999.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: March 2, 1999.

Description: Application of Daystar Airways, Ltd, d/b/a Nevis Express (Daystar) pursuant to 49 U.S.C. Section 41101 and Subpart Q, applies for a certificate of public convenience and necessity for an indefinite term to perform scheduled, interstate transportation of persons, property and mail.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–3842 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–5079]

Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Chemical Transportation Advisory Committee (CTAC) and its Subcommittee on Prevention Through People (PTP) will meet to discuss various issues relating to the marine transportation of hazardous materials in bulk. Both meetings will be open to the public.

DATES: CTAC will meet on Thursday, March 18, 1999, from 9:30 a.m. to 3:30 p.m. The Subcommittee on PTP will meet on Wednesday, March 17, 1999, from 9:30 a.m. to 3 p.m. These meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before March 11, 1999. Requests to have a copy of your material distributed to each member of the committee or subcommittee should reach the Coast Guard on or before March 4, 1999.

ADDRESSES: CTAC will meet in room 2415, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC. The Subcommittee on PTP will meet in room 1301 at the same address. Send written material and requests to make oral presentations to Commander Robert F. Corbin, Commandant (G–MSO–3) U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact Commander Robert F. Corbin, Executive Director of CTAC, or Ms. Sara S. Ju, Assistant to the Executive Director, telephone 202–267–1217, fax 202–267–4570. For questions on viewing, or submitting material to, the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, 202–366–9329.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of Meetings

Chemical Transportation Advisory Committee (CTAC). The agenda includes the following:

(1) Progress report from the Subcommittee on PTP.

(2) Presentation on the Coast Guard Research and Development, Fatigue Study.

(3) Progress report from the Subcommittee on Proper Cargo Names.

(4) Presentation on the American Waterways Operators (AWO) Responsible Carrier Program.

(5) Presentation on harmonized portable tank design criteria.

(6) Presentation on chemical naming, a European perspective.

(7) Status report on the Certificate of Inspection pilot program.

(8) Status report on the vapor control systems rulemaking project.

(9) Status report on the 46 CFR 151 rulemaking project.

(10) Presentation on best oil spill response practices and new concepts.

(11) Presentation on ballast water management.

Subcommittee on PTP. The agenda includes the following:

(1) Review of work to date, with emphasis on alternative watchstanding measures already implemented on various ocean trading routes to preclude and minimize fatigue endemic to seafarers.

(2) Review of the Coast Guard research and development (R & D) project on crew endurance and R & D/ industry efforts to develop crew endurance handbook by 2000.

(3) Discussion of fit-for-duty testing measures and Ship Operations Cooperative Program (SOCP) involvement to date with concerns relative to liability aspects.

(4) Discussion of work efforts on both tasks in the long term assignment and preparation for the CTAC meeting.

Procedural

Both meetings are open to the public. Please note that the meetings may close early if all business is finished. At the Chairs' discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Executive Director no later than March 11, 1999. Written material for distribution at a meeting should reach the Coast Guard no later than March 11, 1999. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of a meeting, please submit 25 copies to the Executive Director no later than March 4, 1999.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: February 8, 1999.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 99–3766 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Document Availability of Final Environmental Assessment, Finding of No Significant Impact, and Record of Decision for Hulett Airport, Hulett, WY

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) has released for public and agency informational review the Final Environmental Assessment, Finding of No Significant Impact, and Record of Decision for the proposed new general aviation airport at Hulett, Wyoming.

Purpose of the Environmental Assessment

THe purpose of the FAA Environmental Assessment is to document the evaluation of potential environmental impacts associated with the construction of a new general aviation airport at Hulett, Wyoming. The draft environmental assessment was released for public and agency review on July 25, 1995. The comment period ended September 30, 1995.

Contact Person: For additional information contact Mr. Dennis Ossenkop, Airports Division, Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue, SW., Renton, WA 98055–4056.

Any person desiring to review the Final Environmental Assessment, Finding of No Significant Impact, and Record of Decision may do so during normal business hours at the following locations:

Federal Aviation Administration, Airports Division, Room 315, 1601 Lind Avenue, SW., Renton, Washington

Federal Aviation Administration, Airports District Office, 26805 E. 68th Ave., Suite 224, Denver, CO

Hulett Town Hall, 123 Hill Street, Hulett, WY

Hulett Library, 401 Fager, Hulett, WY

Issued in Renton, Washington, on February 5, 1999.

Lowell H. Johnson,

Manager, Airports Division, Federal Aviation Administration, Northwest Mountain Region, Renton, Washington.

[FR Doc. 99–3804 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Safety Advisory: Unauthorized Cargo Tanks Used To Transport Hazardous Materials

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of identification of unauthorized cargo tanks.

SUMMARY: In response to a recommendation by the National Transportation Safety Board (NTSB), the FHWA determined that 13 specification number MC 312 cargo tank motor vehicles manufactured in 1982 by Acro Trailer Company (Acro) of Springfield, MO, did not meet the overturn (rollover) accident damage protection device requirements for cargo tank motor vehicles. Consequently, these cargo tanks were not authorized for the transportation of hazardous materials until the original rollover damage protection devices were modified to improve their structural strength. This is because failure of these non-conforming devices during a collision could result in death, serious injury, and property damage. Acro has cooperated with the FHWA to modify the rollover damage protection devices on the cargo tank motor vehicles that are still in service, but has not been able to locate 3 of the 13 non-conforming cargo tank motor vehicles that were manufactured in

1982. This notice provides motor carriers operating specification MC 312 cargo tank motor vehicles manufactured in 1982 by Acro with information to identify the 3 remaining non-conforming cargo tank motor vehicles that have not been located.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Quade, Office of Motor Carrier Safety and Technology (HSA–10), (202) 366–0476; or Mr. Joseph Solomey, Office of the Chief Counsel (HCC–20), (202) 366–1374, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590-0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

Cargo tanks represented, marked, certified, or sold for use in the bulk transportation of hazardous materials must conform with the Hazardous Materials Regulations (49 CFR 171–180). Specification MC 312 cargo tanks are authorized to transport numerous hazardous materials, including flammable liquids (e.g., toluene), poisonous liquids (e.g., pesticides), corrosive liquids (e.g., sulfuric acid), and others. Due to the risk of transporting these types of materials in bulk, the regulations concerning specification MC 312 cargo tanks require that these tanks be protected from damage during rollover accidents. Requirements concerning the size and strength of these rollover damage protection devices for specification MC 312 cargo tank motor vehicles built in 1982 were outlined in the 1982 edition of title 49 of the Code of Federal Regulations (CFR). See section 178.340–8. Specification MC 312 cargo tank motor vehicles are required to meet manufacturing standards in effect at the time the cargo tank was manufactured. See 49 CFR 180.405(b).

On February 4, 1992, NTSB issued recommendation H–92–7 (Special Investigation Report on Cargo Tank Rollover Protection [NTSB/SIR–92/01]) concerning cargo tank motor vehicles. The FHWA then reviewed DOT Specification MC 312 cargo tank designs of tanks manufactured by Acro. The FHWA determined that rollover damage protection devices on thirteen tanks built by Acro in 1982 did not meet the requirements of the specifications. Since these tanks were not equipped with adequate rollover damage protection devices required by the regulations, they may not be represented as specification cargo tanks and may not be used to transport hazardous materials.

Acro installed the rollover damage protection devices on 13 tanks during 1982, but as indicated above, they were non-conforming. After the FHWA completed its investigation, Acro located 10 of the 13 affected cargo tanks and has taken steps to modify the rollover damage protection devices to meet the requirements of the MC 312 specification, or determined that the tanks are no longer in service. The remaining three cargo tanks have not been located and are, therefore, the subject of this notice. Specifically, the rollover damage protection devices installed on the following three cargo tanks as originally manufactured by Acro do not meet the requirements of specification MC 312:

Year	Vehicle identification No.	DOT specification	Serial No.	Drawing No.
1982	1A9114032C1005024	MC 312	5873	5873
1982	1A9114034C1005025	MC 312	5874	5873
1982	1A9114229C1005060	MC 312	5911	5787

If the cargo tanks listed above have rollover damage protection devices modified to a design certified by Acro, or another Design Certifying Engineer to meet the requirements of § 178.340–8, they may continue to be used to transport hazardous materials. If you own or operate one of the cargo tank motor vehicles listed above, please contact Mr. Chuck Beezley of Acro at (417) 862–1758 and the company will assist you in making appropriate modifications. Please also notify Mr. Bill Quade, the FHWA contact person listed at the beginning of this notice, so that the agency is aware that the cargo tank motor vehicles have been located and that arrangements are being made to have the vehicles modified. Cargo tanks which have non-conforming rollover damage protection devices must have the DOT specification plate removed, obliterated, or covered. Non-conforming cargo tanks may not be used to transport hazardous materials requiring a specification cargo tank.

Authority: 49 U.S.C. 5103; and 49 CFR 1.48.

Issued on: February 10, 1999.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 99–3840 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with 49 Code of Federal Regulations (CFR), Sections 211.9 and 211.41 notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of Federal railroad safety regulations. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

Alaska Railroad Corporation (Waiver Petition Docket Number FRA–1998–4901)

Alaska Railroad Corporation(ARRC), seeks a waiver of compliance from certain sections of Title 49 CFR Parts 216, Special Notice and Emergency Order Procedures: Railroad Track, Locomotive and Equipment; 217, Railroad Operating Rules; 218, Railroad Operating Practices; 220, Radio Standards and Procedures; 229, Railroad Locomotive Safety Standards; 233, Signal Systems Reporting Requirements; 235, Instructions Governing Applications for Approval of a 2 Discontinuance or Material Modification of a Signal System or Relief from the Requirements Of Part 236; 236, Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems,

Devices, and Appliances; and 240, Qualification and Certification Of Locomotive Engineers, under Part 211.51, Tests, to allow them to develop, implement, and test technology designed to prevent train collisions and overspeed violations and to protect track maintenance personnel from trains. The program will enable ARRC to demonstrate and validate the technology, referred to as Precision Train Control (PTC), before it is implemented on a larger scale.

PTC is a communications-based system designed to precisely manage the movements of trains in real time. PTC will generate a movement plan for all trains and then provide each train's engineer information necessary to keep the train on plan. PTC will monitor each train's position, velocity and acceleration in real time in respect to the movement plan and will prompt the engineer to take action before a violation occurs associated with limits of authority, track bulletins, track speed, speed restrictions, and working limits of track maintenance personnel. PTC will require the installation of a computer-aided dispatching (CAD) system from which the PTC system will be controlled. The PTC system will consist of three segments that work together to provide enforcement against train movement violations: the central office segment; the locomotive segment; and the communications segment. The central office segment will consist of the CAD, a server and movement planner that will develop and issue enforceable movement authorities and speed limits for each PTC-equipped train. This information is sent through the communications segment to the locomotive segment located onboard the controlling locomotive of each train. The locomotive segment enforces a train's movement and speed limits by monitoring and reporting the train's location and speed and applying the brakes to stop the train if necessary to prevent a violation.

The PTC program will be implemented system wide on the ARRC in the State of Alaska. All main track on all subdivisions on the ARRC will be included in the project. Total trackage will be 534.3 miles.

The following are the waiver requests and their justifications:

§ 216.13 Special notice for repairs—locomotive. Waiver is requested for PTC-equipped locomotives to the extent that non-operation of PTC equipment installed onboard (whether through malfunction or deactivation) shall not be construed as an unsafe condition requiring special notice for repairs. Waiver is also sought for non-PTC-equipped locomotives operating in the PTC test territory to the extent that the absence of PTC equipment onboard shall not be construed as an unsafe condition requiring special notice for repairs.

Justification: With or without PTC equipment operating onboard the controlling locomotive, a train remains subject to existing operating rules. PTC tests require flexibility in installing, removing, turning on, and turning off the onboard equipment. The PTC tests will involve only a small subset of locomotives that will be PTC-equipped for testing.

§ 217.9 Program of operational tests and inspections; record keeping. Waiver is requested exempting operation of PTC equipment and procedures from the requirements for operational tests and inspections and associated record keeping.

Justification: During the PTC test phase, procedures for using PTC equipment and functions will be refined and modified. Until such procedures are defined, they cannot be addressed in the General Code of Operating Rules (GCOR). In any case, PTC is expected to have minimal impact on the operating rules.

§ 217.11 Program of instruction on operating rules; record keeping; electronic record keeping. Waiver is requested exempting operation of PTC equipment and procedures from the requirements for instruction and associated record keeping.

Justification: During the PTC test phase, procedures for using PTC equipment and functions will be refined and modified. Until such procedures are defined, they cannot be addressed in the GCOR. In any case, PTC is expected to have minimal impact on the operating rules.

Part 218 [Subpart D] Prohibition Against Tampering With Safety Devices. Waiver is requested exempting onboard PTC equipment from the requirements of § 218.51, 218.53, 218.55, 218.57, 218.59, and 128.61 to the extent that PTC equipment onboard a locomotive shall not be considered a ''safety device'' according to the provisions of this subpart at any time during the test phase.

Justification: PTC tests require flexibility in installing, removing, turning on, and turning off the onboard equipment. The ARRC also needs the flexibility to permanently disable or remove PTC equipment in the event that a production system is not implemented.

Part 220 Radio Standards and Procedures. Clarification is requested establishing that digital radio communications are exempt from all requirements applicable to radio communications under Part 220.

Justification: Imposing the requirements of Part 220 would negate the efficiencies of digital data communications and adversely affect the PTC concept of operations. Digital radio communications are expected to enhance safety by eliminating the sources of human error which Part 220 is designed to mitigate.

§ 220.21 Railroad operating rules; radio communications; record keeping. Clarification is requested to establish that during PTC testing, operating rules with respect to radio communications shall not be construed or required to address procedures governing digital data communications.

Justification: The GCOR radio rules were written to enhance the safety of voice radio communications. Whether new rules are needed to accommodate digital communications is an open issue which will be decided during the PTC test phase.

§ 220.23 Publication of radio information. Clarification is requested to establish that digital radio base stations and wayside interface units are exempt from the requirements for publication of radio information including locations, channels, and periods of operation.

Justification: The safety rationale of these requirements does not apply to digital radio communications used in PTC where communication management functions occur transparently to the user.

§ 220.61 Transmission of train orders by radio. Clarification is requested establishing that both PTC digitally transmitted enforceable authorities and text authorities including track warrants, track permits and track bulletins are exempt from the requirements governing the voice transmission of train orders, especially: voice exchange prior to transmission of a train order; limitations regarding when and to which crew member a train order may be sent; copying a train order in writing; repeating a train order back to the dispatcher; and requiring the conductor and engineer to have written copies of a train order before it is acted upon.

Justification: The safety rational of these requirements does not apply to digital transmission of either PTC enforceable authorities or displayed text authorities. PTC enforceable authorities are transparent to the train crew and are clearly outside the provisions of this section. Digitally transmitted track warrants, track permits and track bulletins are expected to enhance safety by eliminating the sources of

communication error which the requirements are designed to mitigate.

§ 229.7 Prohibited acts. Waiver is requested to the extent that PTC equipment onboard a locomotive shall not be considered ''appurtenances'' rendering the locomotive subject to the constraints of this section.

Justification: PTC test require flexibility in installing, removing, turning on, and turning off the onboard equipment. ARRC requires the flexibility to temporarily or permanently disable onboard PTC equipment. Whether or not PTC equipment onboard a locomotive is functioning, the train remains subject to the provisions of the rules governing the current methods of operation.

§ 229.135 Event recorders. Waiver is requested to the extent that PTC equipment onboard a locomotive shall not be considered an ''event recorder'' subject to the provisions of this section.

Justification: PTC equipment by design will operate intermittently during the test phase. The data accumulated by the onboard PTC equipment will be used to develop and refine PTC functions. Such data can be expected to contain anomalies that do not reflect true operating conditions, but by analysis will contribute to achieving necessary objectives in the PTC design.

§ 233.9 Reports. Waiver is requested exempting PTC operations in the test phase from the reporting requirement of this section.

Justification: ARRC recognizes that a PTC production system is subject to the provisions of this section, however, imposition of the requirements during the test phase would be an unnecessary paperwork burden.

§ 235.5 Changes requiring filing of application. Waiver is requested exempting PTC from the requirements of this section during the test phase.

Justification: PTC tests require flexibility in installing, removing, modifying, turning on, and turning off the PTC equipment. ARRC also requires the flexibility to permanently disable or remove PTC equipment in the event that a production system is not implemented.

§ 236.4 Interference with normal functioning of device. Waiver is requested to the extent that PTC equipment shall be excluded from this requirement during the test phase.

Justification: During the PTC test phase, the ''normal functioning'' of PTC will be identified, refined and defined. PTC tests require flexibility in installing, removing, turning on, and turning off the PTC equipment. With or without PTC equipment operating onboard the controlling locomotive, the train remains subject to the provisions of the rules governing the existing methods of operation.

§ 236.5 Design of control circuits on closed circuit principle. Waiver is requested excepting PTC equipment from the closed circuit design requirement.

Justification: PTC is composed of solid state components that are software driven. Neither the hardware or software can technically be designed to meet the provisions of this section.

§ 236.11 Adjustment, repair, or replacement of component. Waiver is requested exempting PTC components onboard a locomotive from the requirements of this section.

Justification: PTC test require flexibility in installing, removing, modifying, turning on and turning off PTC equipment. Failure of a PTC component will not jeopardize the safety of train operations. With or without PTC equipment operating onboard the controlling locomotive, the train remains subject to the provisions of the rules governing the existing methods of operation.

§ 236.15 Timetable instructions. Waiver is requested exempting PTC territory from the timetable designation requirement of this section during the PTC test phase.

Justification: The PTC test phase will consist of tests and demonstrations, identifying the test territory in the timetable would be both premature and an unnecessary paperwork burden.

§ 236.23 Aspects and indications. Waiver is requested to the extent that the PTC display onboard an equipped locomotive shall not be construed to represent or correspond to signal aspects or indications subject to the requirements of this section.

Justification: The ARRC is a non signaled railroad. The PTC design excludes any visual display of signal aspects or indications. PTC enforceable authorities, which may or may not derive from signal indications, are not displayed onboard. Only text authorities, such as track warrants, track permits and track bulletins, are displayed to the train crew. Information on the PTC display will in no way represent authority conveyed through wayside signals.

§ 236.76 Tagging of wires and interference of wires or tags with signal apparatus. Waiver is requested exempting PTC equipment from the wire tagging requirement.

Justification: PTC hardware consists of computers, computer peripherals, and communication devices. While the inapplicability of this section to circuit boards, connectors, and cables would appear obvious, waiver is sought for clarification.

§ 236.101 Purpose of inspection and tests; removal from service of relay or device failing to meet test requirements. Waiver is requested exempting PTC equipment from the requirement for removal of failed equipment from service.

Justification: PTC tests require flexibility in installing, removing, turning on, and turning off the onboard equipment. With or without PTC equipment operating onboard, a train remains subject to the provisions of the rules governing the existing methods of operation.

§ 236.107 Ground tests. Waiver is requested exempting PTC equipment from the requirement for ground tests during the test phase.

Justification: PTC hardware consists of computers, computer peripherals, and communication devices. Ground tests would serve no purpose in ensuring safety and could be damaging to the equipment.

§ 236.109 Time releases, timing relays and timing devices. Waiver is requested exempting PTC equipment from the testing requirement of this section during the test phase.

Justification: The timing devices in PTC equipment are software-driven, have no moving or visible parts, and are far more reliable than the devices for which this regulation was promulgated to address.

§ 236.110 Results of tests. Waiver is requested exempting PTC tests from the record keeping requirements of this section.

Justification: During the PTC test phase, the types of tests needed to ensure appropriate levels of maintenance will be defined.

§ 236.501 Forestalling device and speed control. Waiver is requested exempting PTC from the requirement for medium-speed restriction.

Justification: PTC is not connected to a signal system and will not enforce speed restrictions indicated by signal aspects. PTC will enforce speed restrictions reflected in the track database or issued through the CAD system.

§ 236.504 Operation interconnected with automatic block-signal system. Waiver is requested exempting PTC from the requirement of interconnection with an automatic block-signal system.

Justification: The ARRC is a non-signaled railroad and PTC will have no connection to a signal system; however, PTC will operate to perform its intended function in the event of failure of the engineer to obey a restrictive condition displayed in the cab.

§ 236.511 Cab signals controlled in accordance with block conditions stopping distance in advance. Waiver is requested exempting the PTC onboard display from the cab-signal requirements in this section.

Justification: PTC is not an automatic cab signal system and will have no connection to a signal system.

§ 236.514 Interconnection of cab signal system with roadway signal system. Waiver is requested exempting PTC from the requirement of interconnection with a roadway signal system.

Justification: There are no roadway signal systems installed on the ARRC, therefore PTC will have no connection with a signal system.

§ 236.515 Visibility of cab signals. Waiver is requested exempting the PTC display from the visibility requirements of this section during the test phase.

Justification: PTC is not an automatic cab signal system and the design excludes any visual representation of signal aspects or indications. However, the visibility requirements will be met in the PTC production system.

§ 236.534 Entrance to equipped territory; requirements. Waiver is requested exempting the PTC from the requirements of this section during the test phase.

Justification: PTC tests require flexibility in installing, removing, turning on, and turning off PTC equipment.

§ 236.551 Power supply voltage; requirement. Waiver is requested exempting the onboard PTC power supply from the voltage requirement of this section.

Justification: PTC onboard equipment will function with more then a 50% variation in voltage.

§ 236.552 Insulation resistance; requirement. Waiver is requested exempting PTC equipment from the insulation resistance requirement of this section.

Justification: PTC onboard equipment consists of computers, computer peripherals, and communications equipment. Insulation resistance tests could be damaging to such components.

§ 236.553 Seal, where required. Waiver is requested exempting PTC equipment from the seal requirement of this section.

Justification: The PTC system will allow for manual disablement of onboard PTC functions and equipment both remotely from the dispatching office and through an onboard manual function. Use of the onboard cutout function will be electronically monitored and reported to the dispatcher as an alarm.

§ 236.566 Locomotive of each train operating in train stop, train control or cab signal territory; equipped. Waiver is requested to the extent that the equipped requirements in the section shall not apply to PTC during the test phase.

Justification: A small subset of locomotives operating in the test territory will be PTC-equipped; the majority of trains will not be equipped. PTC tests require flexibility in installing, removing, turning on and turning off the onboard equipment. In any case, all PTC tests will be conducted under the provisions of the rules governing the existing methods of operation.

§ 236.567 Restrictions imposed when device fails and/or is cut out en route. Waiver is requested exempting PTC tests from the restrictions associated with device failure or cutout.

Justification: PTC tests require flexibility in installing, removing, turning on and turning off the on-board equipment. All PTC tests will be conducted under the provisions of the rules governing the existing methods of operation and a failure or deactivation of the PTC equipment will not jeopardize safety of train operations.

§ 236.586 Daily or after trip test. Waiver is requested exempting PTC from the requirements of this section during the test phase.

Justification: During the PTC test phase, the requirements for a daily or after-trip test, if necessary, will be defined. An objective is to perform this test without human intervention.

§ 236.587 Departure test. Waiver is requested exempting PTC from the test requirements of this section during the test phase.

Justification: During the PTC test phase, the requirements for a departure test will be defined. An objective is to perform this test without human intervention.

§ 236.588 Periodic test. Waiver is requested exempting PTC from the requirements of this section during the test phase.

Justification: During the PTC test phase, the requirements for periodic testing will be defined.

§ 236.703 Aspect. Clarification is requested exempting the PTC display from this definition.

Justification: PTC is not an automatic cab signal system and its design does not include any visual representation of signal aspects or indications.

§ 236.805 Signal, cab. Clarification is requested exempting the PTC display from this definition.

Justification: PTC is not an automatic cab signal system and its design does not include any visual representation of signal aspects or indications.

§ 240.127 Criteria for examining skill performance. Waiver is requested exempting PTC from the testing requirements of this section during the test phase.

Justification: Criteria and procedures for PTC performance evaluation do not yet exist; they will be identified and defined during the PTC test phase.

§ 240.129 Criteria for monitoring operational performance of certified engineers. Waiver is requested exempting PTC from the performance monitoring procedures during the test phase.

Justification: Criteria and procedures for PTC performance evaluation do not yet exist; they will be identified and defined during the test phase.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning this proceeding should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–1998–4901) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590.

Communications received within 45 days of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) on the 7th floor, 1120 Vermont Avenue, NW, Washington, DC 20590.

Issued in Washington, DC, on February 10, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–3844 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for a Waiver of Compliance

In accordance with Title 49, Code of Federal Regulations (CFR), Sections 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of Federal railroad safety regulations. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief requested and the petitioner's arguments in favor of relief.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket No. FRA–1998–4922) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590. Communications received before March 17, 1999 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours at the above address. All written communications are also accessible on the Internet at http://dms.dot.gov. The waiver petition is as follows:

Michigan State Trust for Railway Preservation, Inc. (MSTP) FRA Waiver Petition Docket No. FRA–1998–4922

MSTP seeks a waiver of compliance with 49 CFR Part 240, ''Qualification and Certification of Locomotive Engineers.'' MSTP is a non-profit educational (501)(c)(3) corporation. It owns and operates a 1941 Lima built steam locomotive. This locomotive, ex-Pere Marquette No. 1225, has operated approximately 5,200 miles since 1988 over the general railroad system. All operations since that time have been in compliance with 49 CFR Part 230.

The organization is located at the steam locomotive repair facility in Owosso, Michigan, and connected to the tracks of the Tuscola and Saginaw Bay Railway (TSBY). MSTP does not own or control any trackage with the exception of two leads extending from their repair shop building, each is approximately 130 feet in length and are leased through the State of Michigan from the TSBY. The petition for waiver is to allow non-certified persons to operate the locomotive as the ''locomotive engineer'' with various restrictions governing the operation. MSTP intends to operate the locomotive over a tangent ''other than main track'' called the *San Yard Track*. The track is 4,800 feet long, crosses no public highway crossings at grade and will be protected by derails at both ends. MSTP expects to comply with the restrictions imposed by FRA when it approves MSTP's operation and set conditions as listed in waiver numbers RSEQ 95–3 and RSEQ 96–2. These restrictions include but are not limited to the following: that the TSBY certified and qualified locomotive engineer is to be located in the cab of the locomotive at all times, daylight operation only, absolute block at all times, locomotive is to be inspected daily and an air brake test performed each time the non-certified person at the throttle is changed and other RSB restrictions as appropriate.

MSTP proposes to conduct this program on selected weekends and holidays.

Issued in Washington, DC, on February 10, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–3843 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–4510; notice 2]

General Motors Corporation; Grant of Application for Decision of Inconsequential Noncompliance

General Motors Corporation (GM) has determined that certain 1998 and 1999 GM passenger cars were not in full compliance with 49 CFR 571.110, Federal Motor Vehicle Safety Standard (FMVSS) No. 110, ''Tire selection and rims,'' and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.'' GM has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published, with a 30-day comment period, on October 28, 1998, in the **Federal Register** (63 FR 57744). NHTSA received no comments on this application during the 30-day comment period.

Paragraph S4.3(b) of FMVSS No. 110 states that each vehicle shall have a placard, permanently affixed to the glove compartment door or an equally accessible location, that displays the designated seating capacity, in terms of the total number of occupants and the number of occupants for each seat location.

From May 3, 1998 to August 6, 1998, GM produced 303,936 U.S. passenger cars with errors in the occupant capacity numbers on the tire information placard. GM stated that the errors were caused by unforeseen changes in the computer program that generates the labels. The programming error resulted in the incorrect numbers for the center and rear positions. However, the correct number was provided for the front position. The following table summarizes the information on the subject placard:

	Front	Center	Rear	Total
As produced	2	2	0	3
Correct	2	0	3	5

GM supports its application for inconsequential noncompliance with the following statements:

1. The vehicle capacity weight, recommended cold tire inflation pressure, and recommended tire size designation information were not affected by the programming change and that information is correct on the placards of the subject vehicles;

2. Occupant capacity information is provided to help customers avoid exceeding tire load limits. These errors will not contribute to overloading because the correct vehicle weight capacity is provided. The seating capacity is understated. The correct tire pressure information is also provided and the tire load limit will not be exceeded with all seating positions occupied; and

3. A customer would look at the number of seats and the number of safety belts in a car to determine its capacity, rather than look at the placard. If a customer does read the seat capacity numbers on the tire placard, it will be obvious that the numbers are incorrect because the sum of the seat numbers will not equal the total number of the label. It is unlikely that anyone will be confused about the seat capacity of these cars after looking at the seats and safety belts. The purpose for the labeling requirements in FMVSS No. 110 is to provide the vehicle user with information for the safe operation of the vehicle by having a placard, permanently affixed to the glove compartment door or an equally accessible location, that displays the designated seating capacity, in terms of the total number of occupants and the number of occupants for each seat location. This information is used to identify the number of seating positions designed by the vehicle's manufacturer and to prevent overloading. In this case, GM understated the number of occupants that the vehicle can carry; therefore, overloading is not an issue. In addition, the correct vehicle capacity weight, recommended cold tire inflation pressure, and recommended tire size designation information are provided.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance it describes is inconsequential to safety. Accordingly, its application is granted, and the applicant is exempted from providing the notification of the noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

(49 U.S.C. 30118, delegations of authority at 49 CFR 1.50 and 501.8).

(49 U.S.C. 30118, 30120, delegations of authority at 49 CFR 1.50 and 501.8).

Issued on: February 10, 1999.

Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–3762 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–4683; Notice 01]

RIN 2127–AH35

Preliminary Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Publication of preliminary theft data; request for comments.

SUMMARY: This document requests comments on data about passenger motor vehicle thefts that occurred in calendar year (CY) 1997, including theft rates for existing passenger motor vehicle lines manufactured in model year (MY) 1997. The theft data preliminarily indicate that the vehicle theft rate for CY/MY 1997 vehicles (3.11 thefts per thousand vehicles) decreased by 5.2 percent from the theft rate for CY/MY 1996 vehicles (3.28 thefts per thousand vehicles).

Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data, and publish the information for review and comment.

DATES: Comments must be submitted on or before April 19, 1999.

ADDRESSES: All comments should refer to the docket number and notice number cited in the heading of this document and be submitted, preferably with two copies to: U.S. Department of Transportation, Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are from 10 am to 5 pm, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR part 541. The standard specifies performance requirements for inscribing or affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data, and publish the data for review and comment. To fulfill the section 33104(b)(4) mandate, this document reports the preliminary theft data for CY 1997, the most recent calendar year for which data are available.

In calculating the 1997 theft rates, NHTSA followed the same procedures it used in calculating the MY 1996 theft rates. (For 1996 theft data calculations, see 63 FR 36478, July 6, 1998). As in all previous reports, NHTSA's data were based on information provided to the agency by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a governmental system that receives vehicle theft information from nearly 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources.

The 1997 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 1997 vehicles of that line stolen during calendar year 1997, by the total number of vehicles in that line manufactured for MY 1997, as reported by manufacturers to the Environmental Protection Agency.

The preliminary 1997 theft data show a decrease in the vehicle theft rate when compared to the theft rate experienced in CY/MY 1996. The preliminary theft rate for MY 1997 passenger vehicles stolen in calendar year 1997 decreased to 3.11 thefts per thousand vehicles produced, a decrease of 5.2 percent from the rate of 3.28 thefts per thousand vehicles experienced by MY 1996 vehicles in CY 1996. For MY 1997 vehicles, out of a total of 203 vehicle lines, 71 lines had a theft rate higher than 3.5826 per thousand vehicles, the established median theft rate for MYs 1990/1991. (See 59 FR 12400, March 16, 1994). Of the 71 vehicle lines with a theft rate higher than 3.5826, 61 are passenger car lines, nine are multipurpose passenger vehicle lines, and one is a light-duty truck line.

In Table I, NHTSA has tentatively ranked each of the MY 1997 vehicle lines in descending order of theft rate. Public comment is sought on the accuracy of the data, including the data for the production volumes of individual vehicle lines.

Comments must not exceed 15 pages in length (49 CFR 553.21). Attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage

commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and two copies from which the purportedly confidential information has been deleted should be submitted to Dockets. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for this document will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments on this document will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available for inspection in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 49 U.S.C. 33101, 33102 and 33104; delegation of authority at 49 CFR 1.50.

PRELIMINARY REPORT OF THEFT RATES OF 1997 MODEL YEAR PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1997

	Manufacturer	Make/model (line)	Thefts 1997	Production (Mfr's) 1997	1997 (per 1,000 vehicles produced) theft rate
1	SUZUKI	SWIFT	16	1,724	9.2807
2	HONDA	ACURA INTEGRA	277	30,046	9.2192
3	CHRYSLER CORP	PLYMOUTH NEON	749	82,880	9.0372
4	MITSUBISHI	MIRAGE	497	58,218	8.5369
5	CHRYSLER CORP	DODGE NEON	926	115,456	8.0204
6	TOYOTA	SUPRA	13	1,629	7.9804
7	HYUNDAI	TIBURON	37	4,758	7.7764
8	SUZUKI	ESTEEM	55	7,116	7.7291
9	MITSUBISHI	MONTERO SPORT	202	26,592	7.5963
10	BMW	8	6	791	7.5853
11	TOYOTA	LEXUS SC	41	5,570	7.3609
12	CHRYSLER CORP	DODGE STRATUS	711	97,227	7.3128
13	NISSAN	MAXIMA	949	131,602	7.2111
14	CHRYSLER CORP	STRATUS [1]	3	429	6.9930
15	MITSUBISHI	MONTERO	82	12,249	6.6944
16	CHRYSLER CORP	INTREPID [1]	4	616	6.4935
17	NISSAN	STANZA ALTIMA	1,157	179,501	6.4456
18	CHRYSLER CORP	PLYMOUTH BREEZE	423	70,699	5.9831
19	MITSUBISHI	3000GT	38	6,399	5.9384
20	GENERAL MOTORS	GEO METRO	374	64,933	5.7598
21	MITSUBISHI	ECLIPSE	439	77,556	5.6604
22	MITSUBISHI	GALANT	282	50,259	5.6109
23	TOYOTA	TERCEL	277	49,527	5.5929
24	CHRYSLER CORP	NEW YORKER/LHS	203	36,622	5.5431
25	FORD MOTOR CO	MERCURY MYSTIQUE	126	23,321	5.4029
26	FORD MOTOR CO	MERCURY TRACER	354	65,867	5.3745
27	SUBARU	SVX	2	384	5.2083
28	MERCEDES BENZ	140 (S-CLASS)	85	16,348	5.1994
29	CHRYSLER CORP	DODGE INTREPID	775	151,603	5.1120
30	MERCEDES BENZ	129 (SL-CLASS)	36	7,172	5.0195
31	CHRYSLER CORP	SEBRING CONVERTIBLE	280	56,004	4.9996
32	HYUNDAI	SONATA	90	18,035	4.9903
33	HONDA	ACURA SLX	5	1,003	4.9850
34	SUZUKI	SIDEKICK	110	22,312	4.9301
35	T0YOTA	COROLLA	1,091	222,055	4.9132
36	GENERAL MOTORS	CHEVROLET CAMARO	270	55,037	4.9058
37	FORD MOTOR CO	MUSTANG	490	100,259	4.8873
38	HYUNDAI	ACCENT	174	37,755	4.6087
39	NISSAN	PATHFINDER	382	83,550	4.5721
40	GENERAL MOTORS	GEO PRIZM	285	62,800	4.5382
41	BMW	M3	35	7,976	4.3882
42	CHRYSLER CORP	CIRRUS	121	28,008	4.3202
43	CHRYSLER CORP	JEEP GRAND CHEROKEE	1,122	259,946	4.3163
44	GENERAL MOTORS	PONTIAC FIREBIRD/FORMULA	133	30,819	4.3155
45	FORD MOTOR CO	ASPIRE	161	37,398	4.3050
46	ASTON MARTIN	DB7	1	234	4.2735
47	ISUZU	HOMBRE PICKUP TRUCK	52	12,177	4.2703
48	HONDA	ACCORD	1,604	375,973	4.2663
49	CHRYSLER CORP	SEBRING COUPE	140	33,163	4.2216
50	SUZUKI	X–90	9	2,182	4.1247

PRELIMINARY REPORT OF THEFT RATES OF 1997 MODEL YEAR PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1997—Continued

	Manufacturer	Make/model (line)	Thefts 1997	Production (Mfr's) 1997	1997 (per 1,000 vehicles produced) theft rate
51	NISSAN	240SX	15	3,655	4.1040
52	FORD MOTOR CO	CONTOUR	327	79,945	4.0903
53	NISSAN	SENTRA/200SX	628	154,689	4.0598
54	GENERAL MOTORS	OLDSMOBILE ACHIEVA	201	49,879	4.0298
55	CHRYSLER CORP	NEON [1]	3	751	3.9947
56	TOYOTA	4-RUNNER	512	128,659	3.9795
57	HYUNDAI	ELANTRA	178	44,936	3.9612
58	GENERAL MOTORS	PONTIAC GRAND AM	834	211,009	3.9524
59	FORD MOTOR CO	ESCORT	1,264	323,413	3.9083
60	MAZDA	626/MX–6	320	82,223	3.8919
61	GENERAL MOTORS	GMC JIMMY S–15	284	73,493	3.8643
62	HONDA	DEL SOL	25	6,719	3.7208
63	FORD MOTOR CO	PROBE	62	16,823	3.6854
64	MERCEDES BENZ	202 (C-CLASS)	44	11,949	3.6823
65	GENERAL MOTORS	BUICK SKYLARK	212	57,716	3.6732
66	CHRYSLER CORP	EAGLE TALON	36	9,827	3.6634
67	ISUZU	RODEO	190	52,937	3.5892
68	CHRYSLER CORP	EAGLE VISION	21	5,888	3.5666
69	GENERAL MOTORS	CHEVROLET CORVETTE	32	9,072	3.5273
70	MAZDA	MILLENIA	58	17,130	3.3859
71	MITSUBISHI	DIAMANTE	95	28,208	3.3678
72	NISSAN	INFINITI I30	92	27,606	3.3326
73	FORD MOTOR CO	TAURUS	1,322	398,720	3.3156
74	NISSAN	INFINITI QX4	54	16,558	3.2613
75	ISUZU	TROOPER	34	10,616	3.2027
76	FORD MOTOR CO	LINCOLN TOWN CAR	328	104,969	3.1247
77	CHRYSLER CORP	DODGE AVENGER	101	32,698	3.0889
78	GENERAL MOTORS	CHEVROLET CAVALIER	969	316,265	3.0639
79	TOYOTA	TACOMA PICKUP TRUCK	333	109,056	3.0535
80	CHRYSLER CORP	JEEP WRANGLER	382	125,276	3.0493
81	KIA	SEPHIA	130	42,709	3.0439
82	FORD MOTOR CO	MERCURY SABLE	340	114,227	2.9765
83	MAZDA	MX–5 MIATA	55	18,536	2.9672
84	GENERAL MOTORS	CHEVROLET BLAZER S10/T10	624	212,327	2.9389
85	FORD MOTOR CO	LINCOLN MARK VIII	48	16,339	2.9378
86	HONDA	PRELUDE	48	16,584	2.8944
87	GENERAL MOTORS	PONTIAC SUNFIRE	305	105,493	2.8912
88	GENERAL MOTORS	CADILLAC DEVILLE	274	95,151	2.8796
89	VOLVO	960	52	18,140	2.8666
90	PORSCHE	911	18	6,289	2.8621
91	HONDA	PASSPORT	62	21,693	2.8581
92	HONDA	CIVIC	933	335,167	2.7837
93	MAZDA	PROTÉGÉ	159	57,153	2.7820
94	FORD MOTOR CO	EXPLORER	1,105	398,992	2.7695
95	FORD MOTOR CO	WINDSTAR VAN	98	36,315	2.6986
96	JAGUAR	XJ6	21	7,899	2.6586
97	VOLKSWAGEN	GOLF/GTI	59	22,684	2.6010
98	ACURA	TL	55	21,441	2.5652
99	TOYOTA	CAMRY	935	365,752	2.5564
100	GENERAL MOTORS	PONTIAC BONNEVILLE	186	74,182	2.5073
101	TOYOTA	PASEO	8	3,194	2.5047
102	TOYOTA	PREVIA VAN	12	4,840	2.4793
103	CHRYSLER CORP	PLYMOUTH PROWLER	1	404	2.4752
104	BMW	7	43	17,788	2.4174
105	FORD MOTOR CO	THUNDERBIRD	178	73,812	2.4115
106	GENERAL MOTORS	OLDSMOBILE CUTLASS SUPREME	127	53,434	2.3768
107	TOYOTA	LEXUS ES	138	59,344	2.3254
108	GENERAL MOTORS	CHEVROLET LUMINA/MONTE CARLO	696	304,270	2.2874
109	MERCEDES BENZ	210 (E-CLASS)	114	50,101	2.2754
110	VOLKSWAGEN	PASSAT	26	11,437	2.2733
111	VOLKSWAGEN	JETTA	208	91,809	2.2656
112	NISSAN	PICKUP TRUCK	286	130,665	2.1888
113	BMW	3	93	42,643	2.1809
114	HONDA	ACURA CL	98	44,955	2.1800
115	CHRYSLER CORP	PLYMOUTH VOYAGER	325	149,874	2.1685
116	GENERAL MOTORS	GMC SAFARI VAN	68	31,673	2.1469
117	GENERAL MOTORS	CHEVROLET ASTRO VAN	213	100,116	2.1275
118	NISSAN	INFINITI J30	23	10,817	2.1263

PRELIMINARY REPORT OF THEFT RATES OF 1997 MODEL YEAR PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1997—Continued

	Manufacturer	Make/model (line)	Thefts 1997	Production (Mfr's) 1997	1997 (per 1,000 vehicles produced) theft rate
119	TOYOTA	LEXUS LS	38	17,900	2.1229
120	GENERAL MOTORS	GMC SONOMA PICKUP TRUCK	82	38,759	2.1156
121	JAGUAR	XJR	1	473	2.1142
122	TOYOTA	RAV4	154	73,321	2.1004
123	BMW	5	86	41,665	2.0641
124	TOYOTA	T100 PICKUP TRUCK	62	30,389	2.0402
125	TOYOTA	CELICA	26	12,901	2.0153
126	GENERAL MOTORS	GEO TRACKER	49	24,400	2.0082
127	GENERAL MOTORS	OLDSMOBILE BRAVADA	54	27,722	1.9479
128	CHRYSLER CORP	CONCORDE	99	51,119	1.9367
129	CHRYSLER CORP	DODGE CARAVAN	559	290,007	1.9275
130	GENERAL MOTORS	PONTIAC GRAND PRIX	275	144,767	1.8996
131	KIA	SPORTAGE	44	23,500	1.8723
132	JAGUAR	XK8	15	8,242	1.8199
133	TOYOTA	AVALON	132	73,991	1.7840
134	GENERAL MOTORS	CADILLAC ELDORADO	34	19,307	1.7610
135	GENERAL MOTORS	BUICK RIVIERA	31	18,175	1.7056
136	VOLVO	850	72	42,596	1.6903
137	SAAB	9000	9	5,449	1.6517
138	PORSCHE	BOXSTER CONVERTIBLE	9	5,459	1.6487
139	BMW	Z3	34	20,636	1.6476
140	CHRYSLER CORP	JEEP CHEROKEE	141	86,303	1.6338
141	FORD MOTOR CO	RANGER PICKUP TRUCK	478	296,746	1.6108
142	VOLKSWAGEN	CABRIO	15	9,473	1.5834
143	GENERAL MOTORS	CHEVROLET S–10 PICKUP TRUCK	298	190,835	1.5616
144	AUDI	A6	12	7,736	1.5512
145	CHRYSLER CORP	DODGE DAKOTA PICKUP TRUCK	195	128,661	1.5156
146	FORD MOTOR CO	AEROSTAR VAN	78	53,721	1.4519
147	NISSAN	INFINITI Q45	18	12,398	1.4518
148	MAZDA	MPV	19	13,302	1.4284
149	FORD MOTOR CO	MERCURY COUGAR	50	35,273	1.4175
150	MAZDA	B SERIES PICKUP TRUCK	50	35,496	1.4086
151	NISSAN	QUEST	73	52,071	1.4019
152	GENERAL MOTORS	CADILLAC SEVILLE	52	37,187	1.3983
153	GENERAL MOTORS	CHEVROLET MALIBU	136	100,661	1.3511
154	FORD MOTOR CO	LINCOLN CONTINENTAL	43	32,204	1.3352
155	CHRYSLER CORP	TOWN & COUNTRY MPV	103	78,662	1.3094
156	GENERAL MOTORS	CADILLAC CATERA	34	26,109	1.3022
157	SUBARU	IMPREZA	34	26,817	1.2679
158	GENERAL MOTORS	SATURN SC	84	66,456	1.2640
159	GENERAL MOTORS	SATURN SL	251	199,018	1.2612
160	VOLKSWAGEN	EUROVAN	2	1,602	1.2484
161	SUBARU	LEGACY	115	92,310	1.2458
162	FORD MOTOR CO	MERCURY VILLAGER MPV	64	61,417	1.0421
163	GENERAL MOTORS	OLDSMOBILE EIGHTY-EIGHT	68	65,879	1.0322
164	GENERAL MOTORS	OLDSMOBILE AURORA	26	25,579	1.0165
165	GENERAL MOTORS	PONTIAC TRANS SPORT VAN	47	47,627	0.9868
166	AUDI	A4	16	16,400	0.9756
167	FORD MOTOR CO	MERCURY GRAND MARQUIS	124	127,973	0.9690
168	SAAB	900	22	23,152	0.9502
169	HONDA	ACURA RL	15	16,377	0.9159
170	FORD MOTOR CO	CROWN VICTORIA	107	123,814	0.8642
171	AUDI	A8	2	2,377	0.8414
172	GENERAL MOTORS	SATURN SW	20	27,129	0.7372
173	GENERAL MOTORS	BUICK LESABRE	155	211,904	0.7315
174	GENERAL MOTORS	OLDSMOBILE CUTLASS	13	18,112	0.7178
175	HONDA	ODYSSEY	14	22,243	0.6294
176	ISUZU	OASIS	1	1,602	0.6242
177	HONDA	CR–V	44	73,948	0.5950
178	GENERAL MOTORS	OLDSMOBILE SILHOUETTE VAN	12	20,927	0.5734
179	GENERAL MOTORS	CHEVROLET VENTURE VAN	38	71,649	0.5304
180	GENERAL MOTORS	BUICK CENTURY	27	53,706	0.5027
181	GENERAL MOTORS	BUICK PARK AVENUE	28	59,549	0.4702
182	GENERAL MOTORS	BUICK REGAL	7	21,828	0.3207
183	AUDI	CABRIOLET	0	1,201	0.0000
184	CHRYSLER CORP	DODGE VIPER	0	1,537	0.0000
185	FERRARI	F355	0	622	0.0000
186	FERRARI	456	0	70	0.0000

PRELIMINARY REPORT OF THEFT RATES OF 1997 MODEL YEAR PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1997—Continued

Manufacturer	Make/model (line)	Thefts 1997	Production (Mfr's) 1997	1997 (per 1,000 vehicles produced) theft rate
187 FERRARI	550	0	94	0.0000
188 GENERAL MOTORS	BUICK FUNERAL COACH/HEARSE	0	546	0.0000
189 GENERAL MOTORS	CADILLAC LIMOUSINE	0	445	0.0000
190 GENERAL MOTORS	SATURN EV1	0	2,000	0.0000
191 HONDA	ACURA NSX	0	322	0.0000
192 JAGUAR	VANDEN PLAS	0	2,536	0.0000
193 LAMBORGHINI	DB132/DIABLO	0	74	0.0000
194 LOTUS	ESPRIT	0	121	0.0000
195 ROLLS-ROYCE	BENTLEY AZURE	0	81	0.0000
196 ROLLS—ROYCE	BENTLEY BROOKLANDS	0	135	0.0000
197 ROLLS—ROYCE	BENTLEY CONTINENTAL T	0	40	0.0000
198 ROLLS-ROYCE	BENTLEY TURBO R	0	54	0.0000
199ROLLS-ROYCE	SILVER DAWN	0	21	0.0000
200 ROLLS-ROYCE	SILVER SPUR	0	113	0.0000
201 ROLLS-ROYCE	PARK WARD LIMOUSINE	0	1	0.0000
202 TOYOTA	LEXUS GS	0	187	0.0000
203 VECTOR AUTO	AVTECH SC/M12	0	4	0.0000

[1] These vehicles were manufactured for sale only in U.S. territories under the Chrysler name plate.

Issued on: February 10, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–3671 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; Ford

AGENCY: National Highway Traffic Safety Administration (NHTSA) Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This notice grants in full the petition of Ford Motor Company (Ford) for an exemption of a high-theft line, the Ford Taurus, from the parts-marking requirements of the Federal Motor Vehicle Theft Prevention Standard. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

DATES: The exemption granted by this notice is effective beginning with model year (MY) 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, S.W., Washington DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: In a petition dated December 17, 1998, Ford requested an exemption from the parts marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the Ford Taurus vehicle line beginning in MY 2000. The petition is pursuant to 49 CFR Part 543, Exemption From Vehicle Theft Prevention Standard, based on the installation of an antitheft device as standard equipment for the entire line.

Ford's submittal is considered a complete petition, as required by 49 CFR Part 543.7, in that it met the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

In its petition, Ford provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new line. Ford will install its antitheft device, the SecuriLock Passive Anti-Theft Electronic Engine Immobilizer System (SecuriLock) as standard equipment on the MY 2000 Ford Taurus.

In order to ensure the reliability and durability of the device, Ford conducted tests, based on its own specified standards. Ford provided a detailed list of the tests conducted and stated its belief that the device is reliable and durable since it complied with Ford's specified requirements for each test. The environmental and functional tests conducted were for thermal shock, high temperature exposure, low-temperature exposure, powered/thermal cycle, temperature/humidity cycling, constant humidity, end-of-line, functional, random vibration, tri-temperature parametric, bench drop, transmit current, lead/lock strength/integrity, output frequency, resistance to solvents, output field strength, dust, and electromagnetic compatibility.

The Ford SecuriLock is a transponder-based electronic immobilizer system. The device is activated when the driver/operator turns off the engine by using the properly coded ignition key. When the ignition key is turned to the start position, the transponder (located in the head of the key) transmits a code to the powertrain's electronic control module. The vehicle's engine can only be started if the transponder code matches the code previously programmed into the powertrain's electronic control module. If the code does not match, the engine will be disabled. Ford stated that there are seventy-two quadrillion different codes and each transponder is hard-coded with a unique code at the time of manufacture. Additionally, Ford stated that the communication between the SecuriLock control function and the powertrain's electronic control module is encrypted.

Ford stated that its SecuriLock system incorporates a theft indicator using a light-emitting diode (LED) that provides information to the driver/operator as to the ''set'' and ''unset'' condition of the device. When the ignition is initially turned to the ''ON'' position, a 3-second continuous LED indicates the proper ''unset'' state of the device. When the ignition is turned to ''OFF'', a flashing

LED indicates the ''set'' state of the device and provides visual information that the vehicle is protected by the SecuriLock system. Ford states that the integration of the setting/unsetting device (transponder) into the ignition key prevents any inadvertent activation of the device.

Ford believes that it would be very difficult for a thief to defeat this type of electronic immobilizer system. Ford believes that its new device is reliable and durable because its does not have any moving parts, nor does it require a separate battery in the key. If the correct code is not transmitted to the electronic control module (accomplished only by having the correct key), there is no way to mechanically override the system and start the vehicle. Furthermore, Ford stated that drive-away thefts are virtually eliminated with the sophisticated design and operation of the electronic engine immobilizer system which makes conventional theft methods (i.e., hot-wiring or attacking the ignition-lock cylinder) ineffective. Ford reemphasized that any attempt to slam-pull the ignition-lock cylinder will have no effect on a thief's ability to start the vehicle.

Ford stated that the effectiveness of its SecuriLock device is best reflected in the reduction of the theft rates for its Mustang GT and Cobra models from MY 1995 to 1996. The SecuriLock antitheft device was voluntarily installed on all Mustang GT and Cobra models, the Taurus LX and SHO models, and the Sable LS model as standard equipment in MY 1996. In MY 1997, the SecuriLock system was installed on the entire Mustang vehicle line as standard equipment. Ford notes that a comparison of the National Crime Information Center's (NCIC) calendar year (CY) 1995 through 1996 theft data for MY 1995 Mustang GT and Cobra vehicles without an immobilizer device installed with MY 1996 data for Mustang GT and Cobra vehicles with an immobilizer device installed, shows a reduction in thefts of approximately 75 % for the vehicles with the immobilizer. Additionally, Ford stated that its SecuriLock device has been installed as standard equipment on the entire Mustang vehicle line since MY 1997.

As part of its submission, Ford also provided a Highway Loss Data Institute (HLDI)'s theft loss bulletin, Vol. 15, No. 1, September 1997, which evaluated 1996 Ford Mustang and Taurus models fitted with the SecuriLock device and corresponding 1995 models without the SecuriLock device. The results as reported by HLDI indicated a reduction in overall theft losses by approximately 50% for both Mustang and Taurus models.

Additionally, Ford stated that its SecuriLock device has been demonstrated to various insurance companies, and as a result AAA Michigan and State Farm now give an antitheft discount of 25% and 10% respectively on premiums for comprehensive insurance for all Ford vehicles equipped with the device.

Ford's proposed device, as well as other comparable devices that have received full exemptions from the parts-marking requirements, lacks an audible or visible alarm. Therefore, these devices cannot perform one of the functions listed in 49 CFR Part 542.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. However, theft data have indicated a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which Ford proposes. In these instances, the agency has concluded that the lack of a visual or audio alarm has not prevented these antitheft devices from being effective protection against theft.

On the basis of comparison, Ford has concluded that the antitheft device proposed for its vehicle line is no less effective than those devices in the lines for which NHTSA has already granted full exemptions from the parts-marking requirements.

Based on the evidence submitted by Ford, the agency believes that the antitheft device for the Ford Taurus vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard (49 CFR Part 541).

The agency believes that the device will provide four of the five types of performance listed in 49 CFR part 543.6(a)(3): promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR Part 543.6(a)(4) and (5), the agency finds that Ford has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Ford provided about its antitheft device.

For the foregoing reasons, the agency hereby grants in full Ford Motor Company's petition for an exemption for the MY 2000 Taurus vehicle line from the parts-marking requirements of 49 CFR Part 541.

If Ford decides not to use the exemption for this line, it must formally notify the agency, and, thereafter, the line must be fully marked as required by 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Ford wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption.

Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.'' The agency wishes to minimize the administrative burden that § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: February 10, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–3761 Filed 2–16–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 99–17

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the

Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 99–17, Mark to Market Election for Commodities Dealers and Securities and Commodities Traders.

DATES: Written comments should be received on or before April 19, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Mark to Market Election for Commodities Dealers and Securities and Commodities Traders.

OMB Number: 1545–1641.

Revenue Procedure Number: Revenue Procedure 99–17.

Abstract: This revenue procedure prescribes the time and manner for dealers in commodities and traders in securities or commodities to elect to use the mark-to-market method of accounting under sections 475(e) and (f) of the Internal Revenue Code. The collections of information in this revenue procedure are required by the IRS in order to facilitate monitoring taxpayers changing accounting methods resulting from making the elections under Code section 475(e) or (f).

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

The reporting burden for the collections of information in section 5.01—5.04 of this revenue procedure is as follows:

Estimated Number of Respondents/ Recordkeepers: 1,000.

Estimated Time Per Respondent/ Recordkeeper: 30 minutes.

Estimated Total Annual Reporting/ Recordkeeping Hours: 500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 9, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–3705 Filed 2–16–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5074

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5074, Allocation of Individual Income Tax to Guam or the Commonwealth of the Northern Mariana Islands (CNMI).

DATES: Written comments should be received on or before April 19, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, Room 5577, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Allocation of Individual Income Tax to Guam or the Commonwealth of the Northern Mariana Islands (CNMI).

OMB Number: 1545–0803.

Form Number: 5074.

Abstract: Form 5074 is used by U.S. citizens or residents as an attachment to Form 1040 when they have $50,000 or more in adjusted gross income from U.S. sources and $5,000 or more in gross income from Guam or the Commonwealth of the Northern Mariana Islands (CNMI). The data is used by IRS to allocate income tax due to Guam or the CNMI as required by 26 U.S.C. 7654.

Current Actions: There are no changes being made to Form 5074 at this time.

Type of Review: Extension of a current OMB approval.

Affected Public: Individuals or households.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 4 hrs., 11 mins.

Estimated Total Annual Burden Hours: 210.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of

information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 8, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–3706 Filed 2–16–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–14–81]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, EE–14–81, Deductions and Reductions In Earnings and Profits (or Accumulated Profits) With Respect to Certain Foreign Deferred Compensation Plans Maintained by Certain Foreign Corporations or by Foreign Branches of Domestic Corporations (§§ 1.404A–5, 1.404A–6 and 1.404A–7).

DATES: Written comments should be received on or before April 19, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Deductions and Reductions In Earnings and Profits (or Accumulated Profits) With Respect to Certain Foreign Deferred Compensation Plans Maintained by Certain Foreign Corporations or by Foreign Branches of Domestic Corporations.

OMB Number: 1545–1393.

Regulation Project Number: EE–14–81.

Abstract: The regulation provides guidance regarding the limitations on deductions and adjustments to earnings and profits (or Accumulated Profits) for certain foreign deferred compensation plans. The information required by the regulation will be used by the IRS to administer section 404A of the Internal Revenue Code and to accurately determine the correct deductions and reductions in earnings and profits attributable to deferred compensation plans maintained by foreign subsidiaries and foreign branches of domestic corporations.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,250.

Estimated Time Per Respondent: 508 hours.

Estimated Total Annual Burden Hours: 634,450.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 8, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–3707 Filed 2–16–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–45–93]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, EE–45–93, Electronic Filing of Form W–4 (§ 31.3402(f)(5)–1).

DATES: Written comments should be received on or before April 19, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Electronic Filing of Form W–4.

OMB Number: 1545–1435.

Regulation Project Number: EE–45–93.

Abstract: Information is required by the Internal Revenue Service to verify compliance with regulation section 31.3402(f)(2)–1(g)(1), which requires submission to the Service of certain withholding exemption certificates. The

affected respondents are employers that choose to make electronic filing of Forms W–4 available to their employees.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not for-profit institutions, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 20 hours.

Estimated Total Annual Burden Hours: 40,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 8, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–3708 Filed 2–16–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–7–90]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–7–90 (TD 8461), Nuclear Decommissioning Fund Qualification Requirements (§ 1.468A–3).

DATES: Written comments should be received on or before April 19, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Nuclear Decommissioning Fund Qualification Requirements.

OMB Number: 1545–1269.

Regulation Project Number: PS–7–90.

Abstract: If a taxpayer requests, in connection with a request for a schedule of ruling amounts, a ruling as to the classification of certain unincorporated organizations, the taxpayer is required to submit a copy of the documents establishing or governing the organization.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 150.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 8, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–3709 Filed 2–16–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–195–78]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995,

Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, IA–195–78 (TD 8426), Certain Returned Magazines, Paperbacks or Records (§ 1.458–1).

DATES: Written comments should be received on or before April 19, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Certain Returned Magazines, Paperbacks, or Records.

OMB Number: 1545–0879.

Regulation Project Number: IA–195–78.

Abstract: The regulations provide rules relating to an exclusion from gross income for certain returned merchandise. The regulations provide that in addition to physical return of the merchandise, a written statement listing certain information may constitute evidence of the return. Taxpayers who receive physical evidence of the return may, in lieu of retaining physical evidence, retain documentary evidence of the return. Taxpayers in the trade or business of selling magazines, paperbacks, or records, who elect a certain method of accounting, are affected.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 19,500.

Estimated Time Per Respondent: 25 minutes.

Estimated Total Annual Burden Hours: 8,125 hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 8, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–3710 Filed 2–16–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 87–61

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice, Notice 87–61, Long-term Contracts; Methods of Accounting Under Tax Reform (Code section 460).

DATES: Written comments should be received on or before April 19, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Long-term Contracts; Methods of Accounting Under Tax Reform.

OMB Number: 1545–1011.

Notice Number: Notice 87–61.

Abstract: Internal Revenue Code section 460 requires taxpayers to use one of two accounting methods in accounting for long-term contracts. The reporting requirements in this notice are necessary to permit taxpayers to change their methods of accounting for long-term contracts to comply with Code section 460.

Current Actions: There is no change to this existing notice.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 25,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation,

maintenance, and purchase of services to provide information.

Approved: February 8, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–3711 Filed 2–16–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–121–90, INTL–292–90, and INTL–361–89]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing final regulations INTL–121–90 (TD 8733), INTL–292–90 (TD 8305), and INTL–361–89 (TD 8292), Treaty-Based Return Positions (§§ 301.6114–1 and 301.7701(b)–7).

DATES: Written comments should be received on or before April 19, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Treaty-Based Return Positions.

OMB Number: 1545–1126.

Regulation Project Number: INTL–121–90, INTL–292–90, and INTL–361–89.

Abstract: Regulation section 301.6114–1 sets forth reporting requirements under Code section 6114 relating to treaty-based return positions. Persons or entities subject to these reporting requirements must make the required disclosure on a statement attached to their return or be subject to a penalty. Regulation section 301.7701(b)–7(a)(4)(iv)(C) sets forth the reporting requirement for dual resident S corporation shareholders who claim treaty benefits as nonresidents of the U.S. Persons subject to this reporting requirement must enter into an agreement with the S corporation to withhold tax pursuant to procedures prescribed by the Commissioner.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 6,020.

Estimated Time Per Respondent: 1 hr.

Estimated Total Annual Burden Hours: 6,015.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 10, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–3712 Filed 2–16–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[LR–115–72]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, LR–115–72 (TD 8043), Manufacturers Excise Taxes on Sporting Goods and Firearms and Other Administrative Provisions of Special Application To Manufacturers and Retailers Excise Taxes (§§ 48.4161, 48.6416, 48.6420, 48.6421, 48.6424, and 48.6427).

DATES: Written comments should be received on or before April 19, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Manufacturers Excise Taxes on Sporting Goods and Firearms and Other Administrative Provisions of Special Application To Manufacturers and Retailers Excise Taxes.

OMB Number: 1545–0723.

Regulation Project Number: LR–115–72.

Abstract: Chapters 31 and 32 of the Internal Revenue Code impose excise taxes on the sale or use of certain articles. Code section 6416 allows a credit or refund of the tax to manufacturers in certain cases. Code sections 6420, 6421, and 6427 allow credits or refunds of the tax to certain users of the articles. This regulation contains reporting and recordkeeping requirements that enable the IRS and taxpayers to verify that the proper amount of tax is reported or excluded.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, not-for-profit institutions, farms, and state, local, or tribal governments.

Estimated Number of Respondents: 1,500,000.

Estimated Time Per Respondent: 19 minutes.

Estimated Total Annual Burden Hours: 475,000.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 10, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–3713 Filed 2–16–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service (IRS)

Notice of Open Meeting of Citizen Advocacy Panel, So. Fl District

SUMMARY: An open meeting of the So. Fla. Citizen Advocacy Panel will be held in Sunrise, Florida.

DATES: The meeting will be held Friday, February 26, 1999 and Saturday, February 27, 1999.

FOR FURTHER INFORMATION CONTACT: Nancy Ferree at 1–888–912–1227, or 954–423–7973.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Citizen Advocacy Panel will be held Friday, February 26, 1999 from 6:00 pm to 9:00 pm and Saturday, February 27, 1999 from 9:00 am to 1:00 pm, in Room 225, CAP Office, 7771 W. Oakland Park Blvd., Sunrise, Florida 33351. The public is invited to make oral comments. Individual comments will be limited to 10 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 954–423–7973, or write Nancy Ferree, CAP Office, 7771 W. Oakland Park Blvd., Room 225, Sunrise, FL 33351. Due to limited conference space, notification of intent to attend the meeting must be made with Nancy Ferree. Ms. Ferree can be reached at 1–888–912–1227 or 954–423–7973.

The Agenda will include the following: various IRS issue updates and reports by the CAP sub-groups.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: February 8, 1999.

M. Cathy VanHorn,

CAP Project Manager.

[FR Doc. 99–3704 Filed 2–16–99; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Wednesday
February 17, 1999

Part II

Department of Health and Human Services

Administration for Children and Families

Request for Applications Under the Office of Community Services' Fiscal Year 1999 Family Violence Prevention and Services Discretionary Program; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–99–06]

Request for Applications Under the Office of Community Services' Fiscal Year 1999 Family Violence Prevention and Services Discretionary Program

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Announcement of availability of funds and request for applications under the Office of Community Services' Family Violence Prevention and Services (FVPS) Discretionary Program.

SUMMARY: The Office of Community Services (OCS) invites eligible entities to submit applications for FY 1999 funding of competitive grants under the FVPS.

The Office of Community Services intends to publish another program announcement at a later date to cover the following program: CSBG/Training, Technical Assistance and Capacity Building.

Applications received in response to the FVPS will be screened and evaluated as indicated in this document. Awards will be contingent on the outcome of the competition and the availability of funds.

ADDRESSES: Prior to submitting an application, potential applicants must obtain a copy of the FVPS Application Kit, containing additional program information, forms, and instructions. Application Kits are available by writing or calling the Office of Community Services at 5th Floor West, Aerospace Building, 370 L'Enfant Promenade, SW Washington DC 20447. To obtain a copy of the Family Violence Prevention and Services Application Kit, call: (202) 401–4787.

FOR FURTHER INFORMATION CONTACT: Administration for Children and Families, Office of Community Services, Division of State Assistance, 370 L'Enfant Promenade, SW Washington, DC 20447. Telephone: Sunni Knight, (202) 401–5319; James Gray, (202) 401–5705; or William Riley (202) 401–5529.

A copy of the **Federal Register** containing the FVPS announcement is available for reproduction at most local libraries and Congressional District Offices. It is also available on the Internet through GPO Access at the following web address: http://www.access.gpo.gov/su__docs/aces/aces140.html If the announcement is not available at these sources, it may be obtained by writing to the office listed under **ADDRESSES** above. *Application Deadlines:* The closing dates for submission of applications is May 3, 1999. Further details regarding application submission are provided in the Supplementary Information section of this program announcement. Mailed applications postmarked after the closing date will be classified as late. Refer to Application Submission below for other details.

SUPPLEMENTARY INFORMATION:

A. Program Announcement

The Application Kit for the FY 1999 FVPS will not be published in the **Federal Register**. Rather, OCS is publishing FY 1999 Program Announcement OCS–99–06 in the **Federal Register**. Program Announcement OCS–99–06 contains the following information for the FVPS: Program Contact Person; Availability Date of Application Kit; Application Deadline; Legislative Authority; FY 1999 Family Violence Priority Areas; Eligible Applicants and Availability of Funds; Matching Requirements; Type of Awards; and Review Criteria.

B. General Instructions

In order to be considered for a grant under this OCS FVPS program announcement, an application must be submitted on the forms supplied and in the manner prescribed by OCS in the FVPS Application Kit. When requesting an Application Kit, the applicant must specify the Family Violence Prevention and Services Program Application Kit. This is to ensure receipt of all necessary forms and information, including any program-specific evaluation criteria. Application Kits, including all of the necessary forms and instructions, will be available for reading and downloading from the Internet at the OCS Website at: http://www.acf.dhhs.gov/programs/ocs

C. Application Submission

Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, 4th Floor Aerospace, 370 L'Enfant Promenade, SW, Washington, DC 20447; with the note: Attention: Application for Family Violence Prevention and Services Program or CFDA No. 93–592.

Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private Metered postmarks shall not be acceptable as proof of timely mailing. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

Applications handcarried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST, at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, SW, Washington, DC 20024, between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note: Attention: Family Violence Prevention and Services Program or CFDA No. 93–592.

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

Applications, once submitted, are considered final and no additional materials will be accepted.

Late applications: Applications, which do not meet the criteria above, are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of the mail service. Determinations to extend or waive deadline requirements rest with ACF's Chief Grants Management Officer.

D. Details for This Program Announcement

Pertinent information of concern for potential applicants for the Family

Violence Prevention and Services Program is set forth below:

(CFDA No. 93.592) Deadline Date: May 3, 1999

(1) *Program Contact Persons:* Sunni Knight (202) 401-5319; James Gray (202) 401–5705; or William Riley (202) 401–5529.

(2) *Date of Application Kit:* February 17, 1999.

(3) *Application Deadline:* Applications must be *POSTMARKED* by May 3, 1999. Detailed application submission instructions are included in the Application Kit.

(4) *Legislative Authority:* Title III of the Child Abuse Amendments of 1984, (Pub. L. 98–457, 42 U.S.C. 10401, *et seq.*) is entitled the Family Violence Prevention and Services Act (the Act). The Act was first implemented in FY 1986, was reauthorized and amended in 1992 by Pub. L. 102–295, and was amended and reauthorized for fiscal years 1996 through 2000 by Pub. L. 103–322, the Violent Crime Control and Law Enforcement Act of 1994 (the Crime Bill). The Act was most recently amended by Pub L. 104–235, the Child Abuse Prevention and Treatment Act Amendment of 1996.

(5) *FY 1999 Family Violence Priority Areas:*

(a) Priority Area Number FV–01–99, Improving the Health Care Response to Domestic Violence;

(b) Priority Area Number FV–02–99, Training Grant Stipends in Domestic Violence for Historically Black, Hispanic-Serving and Tribal Colleges and Universities; and

(c) Priority Area Number FV–03–99, Public Information Community Awareness Campaign Projects for the Prevention of Family Violence.

(6) *Eligible Applicants and Availability of Funds*

(a) FV–01–99: Eligible applicants are State and local domestic violence coalitions or domestic violence advocacy programs; State and local health agencies, State and local health professional associations or societies; nonprofit health care facilities; and State or local entities with experience in the field of family violence prevention. The eligible applicant must represent a team of organizations from both the domestic violence and health care communities. The maximum federal share for this project is not to exceed $75,000. The length of the project should not exceed a 17-month project period. Applications for lesser amounts will also be considered under this priority area. It is anticipated that 4 projects may be funded; more may be funded depending on the number of acceptable applications received for lesser amounts.

(b) FV–02–99: Eligible applicants are: Historically Black Colleges and Universities; Hispanic/Latino Institutes of Higher Education; and American Indian Tribally-controlled Community Colleges and Universities. (Fiscal Year 1998 recipients of Family Violence Training Grant Stipend awards are not eligible applicants.) The institution must be fully accredited by one of the regional institutional accrediting commissions recognized by the U.S. Secretary of Education and the Council on Social Work Education;

This competitive program provides stipends for a maximum amount not to exceed $300,000 per project period (the project period is 36 months). This amount includes direct and indirect costs per college or university. The federal share will fund, per each 12 month budget period, up to 5 student candidates at a maximum of $11,250 each and will fund 1 faculty coordinator of the project at $43,750. It is anticipated that 8 projects will be funded yearly at $100,000 each. Applications for lesser amounts will also be considered for this priority area.

(c) FV–03–99: Eligible applicants are: State and local public agencies, Territories, and Native American Tribes and Tribal Organizations who are, or have been, recipients of Family Violence Prevention and Services Act grants; State and local private non-profit agencies experienced in the field of family violence prevention; and public and private non-profit educational institutions, community organizations and community-based coalitions, and other entities that have designed and implemented family violence prevention information activities or community awareness strategies. The maximum federal share of the project is not to exceed $35,000 for the 1-year project period. Applications for lesser amounts also will be considered under this priority area. It is anticipated, subject to the availability of funds, that 4 projects will be funded at the maximum level; more than 4 projects may be funded depending on the number of acceptable applications for lesser amounts which are received.

(7) *Matching Requirements:* Successful applicants must provide at least 25 percent of the total cost of the project. The approved total cost of the project is the sum of the ACF share and the non-federal share. The non-federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $50,000 in federal funds (based on an award of $50,000 per budget period) must include a match of at least $16,666 (25% of the total project cost) for a total budget of $66,666. Therefore, a project requesting $100,000 in federal funds (based on an award of $100,000 per budget period) must include a match of at least $33,333 (25% of the total project cost) for a total budget of $133,333. If approved for funding, grantees will be held accountable for commitments of non-federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds. This matching requirement applies to all 3 Priority Areas.

(8) *Type of Awards:* Grants.

(9) *Review Criteria for Family Violence Prevention and Services Competitive Discretionary Grants:* Using the appropriate criteria below, a panel of at least three reviewers (primarily experts from outside the Federal government) will review each application. Applicants should ensure that they address each minimum requirement in the priority area description under the appropriate section of the Program Narrative Statement.

Reviewers will determine the strengths and weaknesses of each application in terms of the appropriate evaluation criteria listed below, provide comments and assign numerical scores. The point value following each criterion heading indicates the maximum numerical weight that each section may be given in the review process:

(a) Need for the Project (10 Points)

The extent to which the need for the project and the problems it will address have national significance; the applicability of the project to coordination efforts by national, Tribal, State and local governmental and non-profit agencies, and its ultimate impact on domestic violence prevention services and intervention efforts, policies and practice; the relevance of other documentation as it relates to the applicant's knowledge of the need for the project; and the identification of the specific topic or program area to be served by the project. Maps and other graphic aids may be attached;

(b) Goals and Objectives (10 Points)

The extent to which the specific goals and objectives have national or local significance, the clarity of the goals and objectives as they relate to the identified need for and the overall purpose of the project, and their applicability to policy and practice. The provision of a detailed discussion of the objectives and the

extent to which the objectives are realistic, specific, and achievable;

(c) Approach (30 Points)

The extent to which the application outlines a sound and workable plan of action pertaining to the scope of the project, and details how the proposed work will be accomplished; relates each task to the objectives and identifies the key staff member who will be the lead person; provides a chart indicating the timetable for completing each task, the lead person, and the time committed; cites factors which might accelerate or decelerate the work, giving acceptable reasons for taking this approach as opposed to others; describes and supports any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements, and provides for projections of the accomplishments to be achieved.

The extent to which, when applicable, the application describes the evaluation methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved;

(d) Results and Benefits (20 Points)

The extent to which the application identifies the results and benefits to be derived, the extent to which they are consistent with the objectives of the application, the extent to which the application indicates the anticipated contributions to policy, practice, and theory, and the extent to which the proposed project costs are reasonable in view of the expected results. Identify, in specific terms, the results and benefits, for target groups and human service providers, to be derived from implementing the proposed project. Describe how the expected results and benefits will relate to previous demonstration efforts; and

(e) Level of Effort: (30 Points)

Staffing pattern—Describe the staffing pattern for the proposed project, clearly linking responsibilities to project tasks and specifying the contributions to be made by key staff.

Competence of staff—Describe the qualifications of the project team including any experiences working on similar projects. Also, describe the variety of skills to be used, relevant educational background and the demonstrated ability to produce final results that are comprehensible and usable. One or two pertinent paragraphs on each key member are preferred to resumes. However, resumes may be included in the ten pages allowed for attachments/appendices.

Adequacy of resources—Specify the adequacy of the available facilities, resources and organizational experience with regard to the tasks of the proposed project. List the financial, physical and other resources to be provided by other profit and nonprofit organizations. Explain how these organizations will participate in the day to day operations of the project.

Budget—Relate the proposed budget to the level of effort required to obtain project objectives and provide a cost/benefit analysis. Demonstrate that the project's costs are reasonable in view of the anticipated results.

Collaborative efforts—Discuss in detail and provide documentation for any collaborative or coordinated efforts with other agencies or organizations. Identify these agencies or organizations and explain how their participation will enhance the project. Letters from these agencies and organizations discussing the specifics of their commitment must be included in the application.

Authorship—The authors of the application must be clearly identified together with their current relationship to the applicant organization and any future project role they may have if the project is funded. Applicants should note that non-responsiveness to the section designated as ''*Minimum Requirements for Project Design*'' in the applicable priority areas, will result in a low evaluation score by the panel of expert reviewers.

Applicants must clearly identify the specific priority area under which they wish to have their applications considered, and tailor their applications accordingly. Previous experience has shown that an application which is broad and more general in concept than outlined in the priority area description is less likely to score as well as one which is more clearly focused and directly responsive to the concerns of that specific priority area.

Additional Requirements: Applicants for grants must also meet the following requirements:

A. Paperwork Reduction Act of 1995 #0970–0062

Under the Paperwork Reduction Act of 1995, Public Law 104–13, the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations, including Program Announcements. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. This Program Announcement does not contain information collection requirements beyond those approved for ACF grant announcements/applications under OMB Control Number 0970–0062.

B. Intergovernmental Review

The Family Violence Prevention and Services Program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

Note: State/Territory participation in the Intergovernmental Review process does not signify applicant eligibility for financial assistance under a program. A potential applicant must meet the eligibility requirements of the program for which it is applying prior to submitting an application to its SPOC, if applicable, or to ACF.

As of September 1998, a number of jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by federally recognized Indian Tribes need take no action in regard to E.O. 12372. A list of these non-participating jurisdictions can be found in the Application Kit for the Family Violence Prevention and Services Program.

Although the non-participating jurisdictions no longer participate in the process, entities which have met the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions.

Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the

submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule. When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, 4th Floor, 370 L'Enfant Promenade, SW., Washington, DC 20447.

Dated: February 10, 1999.

Donald Sykes,

Director, Office of Community Services.

[FR Doc. 99–3874 Filed 2–16–99; 8:45 am]

BILLING CODE 4184–01–P

Federal Register

Wednesday
February 17, 1999

Part III

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Advisory Committee and Research; Notice of a Meeting and Proposed Actions Under the Guidelines; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee on March 11–12, 1999. The meeting will be held at the National Institutes of Health, Building 31C, 6th Floor, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892, starting on March 11, 1999, at approximately 9 a.m., and will recess at approximately 5 p.m. The meeting will reconvene on March 12, 1999, at approximately 8:30 a.m. and will adjourn at approximately 5 p.m. The meeting will be open to the public, except for a portion of the day on March 12. In accordance with sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., the meeting may be closed to the public on March 12 from approximately 10:00 a.m. to approximately 10:30 a.m. for the discussion of a protocol. These discussions could disclose trade secrets and commercial property such as patentable material and personal information concerning individuals associated with the protocols, the disclosure of which would constitute a clearly unwarranted invasion of privacy. The meeting will be held to discuss Proposed Actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (59 FR 34496, amended 59 FR 40170, 60 FR 20726, 61 FR 1482, 61 FR 10004, 62 FR 4782, 62 FR 53335, 62 FR 56196, 62 FR 59032, 63 FR 8052, 63 FR 26018) and other matters to be considered by the Committee. The Proposed Actions will follow this notice of meeting. Attendance by the public will be limited to space available.

Debra W. Knorr, Acting Director, Office of Recombinant DNA Activities, National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, Phone (301) 496–9838, FAX (301) 496–9839, will provide summaries of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such assign language interpretation or other reasonable accommodations, should contact Ms. Knorr in advance of the meeting. The Office of Recombinant DNA Activities (ORDA) web site is located at *http://www.nih.gov/od/orda* for further information about the office.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the *NIH Guidelines.* In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: February 8, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, National Institutes of Health.

[FR Doc. 99–3850 Filed 2–16–99; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Research: Proposed Actions Under the Guidelines

AGENCY: National Institutes of Health (NIH), PHS, DHHS.

ACTION: Notice of proposed actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth proposed actions to be taken under the NIH Guidelines for Research Involving Recombinant DNA Molecules (59 FR 34496, amended 59 FR 40170, 60 FR 20726, 61 FR 1482, 61 FR 10004, 62 FR 4782, 62 FR 53335, 62 FR 56196, 62 FR 59032, 63 FR 8052, 63 FR 26018). Interested parties are invited to submit comments concerning these proposals. These proposals will be considered by the Recombinant DNA Advisory Committee (RAC) at its meeting on March 11–12, 1999. After consideration of these proposals and comments by the RAC, the NIH Director will issue decisions in accordance with the NIH Guidelines.

DATES: Interested parties are invited to submit comments concerning this proposal. Comments received by February 24, 1999, will be reproduced and distributed to the RAC for consideration at its March 11–12, 1999, meeting. After consideration of this proposal and comments by the RAC, the NIH Director will issue decisions in accordance with the NIH Guidelines.

ADDRESSES: Written comments and recommendations should be submitted to Debra Knorr, Office of Recombinant DNA Activities, National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, or by FAX to 301–496–9839.

All comments received in response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, Phone 301–496–9838, FAX 301–496-9839. The Office of Recombinant DNA Activities' (ORDA) web site is located at *http://www.nih.gov/od/orda* for further information about the office.

SUPPLEMENTARY INFORMATION: The NIH will consider the following actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules:

I. Amendment to Appendix B–I. Risk Group 1 (RG1) Agents

On December 11, 1998, ORDA received a facsimile from Dr. Margarita C. Curras-Collazo, University of California at Riverside, Riverside, California, requesting under Section IV–C–1–(2), Minor Actions, of the NIH Guidelines, to lower the containment level (from Biological Level (BL) 2 to 1) for recombinant adeno-associated vectors (AAV) produced in the absence of helper viruses. Subsequent to this request, ORDA received a telephone call from Ms. Brenda Wong, Biological Safety Officer, University of California at San Diego, La Jolla, California, asking that this determination be reconsidered due to the potential of insertional metagenesis of recombinant AAV. ORDA has solicited the opinion of three experts in the AAV field, in addition to the opinion of the RAC Chair.

It is the opinion of the RAC Chair and the three experts that BL1 is appropriate for recombinant AAV vectors produced

in the absence of helper viruses; therefore, an amendment to the NIH Guidelines is appropriate. Part of the rationale for this decision is based on the fact that experiments involving certain recombinant retroviral vectors, which insert randomly into the genome and could potentially cause insertional mutagenesis, are designated as BL1.

Currently the affected section of the NIH Guidelines states in part: ''RG1 agents are not associated with disease in healthy adult humans. Examples of RG1 agents include asporogenic *Bacillus subtilis* or *Bacillus licheniformis* (see Appendix C–IV–A, *Bacillus subtilis* or *Bacillus licheniformis* Host-Vector Systems, Exceptions), *Escherichia coli*-K12 (see Appendix C–II–A, *Escherichia coli*-K12 Host Vector Systems, Exceptions), and adeno-associated virus types 1 through 4.''

At the March 11–12, 1999, meeting, the RAC will consider an amendment to Appendix B–1, of the NIH Guidelines. The new section, Appendix B–1, is proposed to read:

RG1 agents are not associated with disease in healthy adult humans. Examples of RG1 agents include asporogenic *Bacillus subtilis* or *Bacillus licheniformis* (see Appendix C–IV–A, *Bacillus subtilis* or *Bacillus licheniformis* Host-Vector Systems, Exceptions), *Escherichia coli* K–12 (see Appendix C–II–A, *Escherichia coli* K–12 Host Vector Systems, Exceptions), adeno-associated virus types 1 through 4, and recombinant AAV constructs, in which the transgene does not encode either a tumor suppressor or a toxin molecule and are produced in the absence of a helper virus.

II. Addition to Appendix D of the NIH Guidelines Regarding the Introduction of a Gene Coding for Ampicillin Resistance into *Chlamydia trachomatis*/ Dr. Stothard

In a facsimile dated January 27, 1999, Dr. Diane Stothard of Indiana University, Indianapolis, Indiana, is requesting permission to conduct experiments which involve the introduction of a gene coding for ampicillin resistance into *Chlamydia trachomatis*, a Risk Group 2 agent. According to Section III–A–1-a of the NIH Guidelines, experiments that involve the transfer of a drug resistance trait to a microorganism that is not known to acquire the trait naturally shall be reviewed by the RAC. Ampicillin type drugs are one of the few accepted treatments for pregnant women.

At the March 11–12, 1999, meeting, the RAC will consider a proposed addition to Appendix D, of the NIH Guidelines, to allow the introduction of gene coding for ampicillin resistance into *Chlamydia trachomatis*, a Risk Group 2 agent.

III. Discussion Regarding Prenatal Gene Transfer Research

On January 7–8, 1999, the NIH held a Gene Therapy Policy Conference entitled: Prenatal Gene Transfer: Scientific, Medical, and Ethical Issues. This conference was not an endorsement by the NIH of prenatal gene transfer research. Rather, this conference was an initial step in an ongoing process of active public deliberation among scientists, clinicians, families, policy makers, individuals, and groups of concerned citizens to gather expert views and solicit public opinion regarding the substantive public policy issues raised by prenatal gene transfer research. It is anticipated that continued deliberation of this issues will ultimately lead to the development of NIH and FDA policy in this arena. The conference participants concluded, ''At present, there is insufficient preclinical data to support the initiation of clinical trials involving prenatal gene transfer.'' A substantial number of critical scientific, safety, ethical, legal, and social issues must be addressed before clinical trials proceed in this arena. These issues include (but are not limited to): (1) Efficiency of gene transfer to target cells; (2) specificity of delivery to target cells; (3) level, duration, and regulation of gene expression; (4) appropriate disease candidates; (5) fetal immune response to transgene products and/or vectors; (6) emergence of fetal immune tolerance; (7) effects of gene transfer on pre- and post-natal development; (8) possibility of generation and activation of transmissible vector or virus; (9) possibility of initiating oncogenic or degenerative processes; (10) limitations related to the accuracy of disease diagnosis; (11) implications of diagnostic limitations on the design and conduct of clinical trials; (12) elements of optimal clinical trial design and analysis; (13) definition of clinical endpoints for the analysis of clinical outcomes; (14) potential risk to the fetus and acceptable level of risk to the fetus in human experimentation; (15) potential risk to the pregnant woman; (16) inclusion and exclusion criteria for the pregnant woman; (17) inclusion criteria for the fetus; (18) pre- and post-pregnancy monitoring of the pregnant woman; (19) pre- and post-partum monitoring of the fetus/child; (20) detection and assessment of inadvertent germ-line transmission; (21) ethical issues specific to the fetus; (22) ethical issues specific to the pregnant woman; (23) patient recruitment/enrollment processes; (24) informed consent issues; (25) societal issues; and (26) legal issues.

The RAC will continue to deliberate these issues during the March 11–12, 1999, meeting and at its future meetings.

IV. Presentation on Gonadal Biodistribution of Gene Transfer Vectors and the Potential Risk of Inadvertent Germ-line Transmission

Representatives of the Food and Drug Administration (FDA) and other invited speakers will present an overview of preclinical data related to gonadal biodistribution of gene transfer vectors and the attendant ethical and safety issues related to preclinical assessment of vector biodistribution and potential risk of inadvertent germ-line transmission to the RAC during the March 11–12, 1999, meeting. This discussion serves as a follow-up to the December 15, 1997, and March 9, 1998, discussions between the FDA and the RAC at which FDA representatives informed the RAC of several preclinical studies demonstrating that DNA homologous to gene transfer vectors has been found in gonadal tissue subsequent to vector administration to extra gonadal sites.

On December 15, 1997, Drs. Steven Bauer and Anne Pilaro, Center for Biologics Evaluation and Research, FDA, presented an overview related to the FDA's observation that preclinical animal studies designed to assess vector biodistribution have demonstrated unexpected persistence of vector nucleic acid sequences in gonadal tissue. Specifically: (1) Nucleic acid persistence in gonadal tissues is evidenced by positive polymerase chain reaction (PCR) signals in DNA extracted from whole gonads, and (2) evidence of nucleic acid persistence in gonadal tissues has been observed with multiple classes of vectors, formulations, and routes of administration. The FDA became aware of these data as part of its review of Investigational New Drug (IND) applications.

Representatives of the FDA noted that the following issues must be resolved before the implications of these observations can be determined: (1) The source of the gonadal PCR signal has not been determined, i.e., germ cells, blood cells, or stroma. Current PCR methods for detecting vector sequences are highly sensitive (capable of detecting one vector copy per microgram of cellular DNA); however, there is a high incidence of false positives and negatives. (2) There are limited data about whether these vector sequences are episomal or integrated. (3) It is unknown whether the presence of

vector nucleic acid sequences in gonadal tissue is associated with any developmental effects. FDA representatives welcomed the opportunity to present this information to the RAC and the public as a timely and appropriate mechanism for increasing public awareness of these findings and to stimulate continued public discussion of the implications of these observations.

Under the limits of confidentiality, the FDA could not discuss further specifics of the observations; therefore, the RAC recommended that ORDA should send a letter to all principal investigators of clinical gene therapy trials and all IBCs requesting submission of all available data related to persistence of nucleic acid vectors in gonadal tissue. The RAC requested this information as part of its role and responsibility to ensure public awareness of recombinant DNA issues within the context of the NIH Guidelines. The NIH Guidelines are applicable to all research that is conducted at, or sponsored by, an institution that receives any support for recombinant DNA research from the NIH. ORDA received approximately 80 responses to this request.

During its March 9, 1998, meeting, the RAC discussed these responses. Four responses indicated that vector sequences were detected in either the ovaries or testes in preclinical animal studies; however, the number of responses received was not representative of the number of clinical trials currently registered with ORDA. RAC members expressed concern about the quantity and quality of responses to the ORDA letter. These concerns included whether the information collected thus far was subject to quality control and if researchers took any precautions to prevent contamination of the analyzed tissue. Of additional concern was the fact that many clinical investigators were not conducting appropriate assays to determine the presence of nucleic acid vectors in gonadal tissue.

Based on the limited information available to the RAC at that time, the committee acknowledged its responsibility to raise a cautionary note regarding the possibility that such evidence suggests inadvertent germ-line alteration. The RAC discussed the complexities involved in designing appropriate testing procedures. The RAC concluded that there is a need to initiate well-designed studies to adequately evaluate the implications of finding vector sequences in gonadal tissue.

V. Discussion on Gene Transfer Vector Containment

The NIH Office of Recombinant DNA Activities (ORDA) has received numerous inquiries from research investigators and Institutional Biosafety Committee (IBC) representatives regarding the appropriate containment practices and procedures for the generation and use of multiple classes of gene transfer vectors. During the March 11–12, 1999, meeting, the RAC will initiate a discussion regarding a reexamination of the proper containment level for a wide variety of vectors employed in gene transfer research. In addition, several new methodologies, such as the use of chimeric nucleic acids, that are currently not covered by the NIH Guidelines will be addressed to aid in laying the groundwork for a redefinition of the term ''recombinant DNA.'' The RAC will discuss the need to update the NIH Guidelines regarding appropriate containment practices and procedures for gene transfer vectors in a variety of settings, i.e., laboratories, animals, and human subjects.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: February 3, 1999.

Lana Skirboll,

Associate Director for Science Policy, National Institutes of Health.

[FR Doc. 99–3851 Filed 2–16–99; 8:45 am]

BILLING CODE 4140–01–P

Federal Register

Wednesday
February 17, 1999

Part IV

Department of Health and Human Services

Health Care Financing Administration

42 CFR Part 422

Medicare Program; Changes to the Medicare+Choice Program; Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 422

[HCFA–1030–F]

RIN 0938–AI29

Medicare Program; Changes to the Medicare+Choice Program

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to set forth limited changes to the Medicare+Choice regulations published in our June 26, 1998 interim final rule (63 FR 34968). Those regulations implemented section 4001 of the Balanced Budget Act of 1997 (BBA), which established the Medicare+Choice (M+C) program. This final rule addresses selected issues raised by commenters on the June 26, 1998 interim final rule where we have identified the need for changes or where we believe that clarifications are needed as soon as possible. Among these issues are provider participation procedures, beneficiary enrollment options, and several access-related issues, including initial care assessment requirements, notification requirements when specialists are terminated from an M+C plan, and several coordination of care requirements.

DATES: *Effective date:* This final rule is effective March 19, 1999.

FOR FURTHER INFORMATION CONTACT: Tony Hausner (410) 786–1093 (for access to care issues). Debe McKeldin (410) 786–9159 (for enrollment issues). Tony Culotta (410) 786–4661 (for provider participation rules or other issues).

SUPPLEMENTARY INFORMATION:

I. Background

A. Balanced Budget Act of 1997

Section 4001 of the Balanced Budget Act of 1997 (BBA) (Public Law 105–33), enacted August 5, 1997, added sections 1851 through 1859 to the Social Security Act (the Act) to establish a new Part C of the Medicare program, known as the ''Medicare+Choice (M+C) Program.'' (The existing Part C of the statute, which included provisions in section 1876 of the Act governing existing Medicare health maintenance organization (HMO) contracts, has been redesignated as Part D.) Under section 1851(a)(1) of the Act, every individual entitled to Medicare Part A and enrolled under Part B, except for individuals with end-stage renal disease, may elect to receive benefits through either the existing Medicare fee-for-service program or a Part C M+C plan.

As its name implies, the primary goal of the Medicare+Choice program is to provide Medicare beneficiaries with a wider range of health plan choices through which to obtain their Medicare benefits. Alternatives available to beneficiaries under the M+C program include both the traditional managed care plans (such as HMOs) that have participated in Medicare on a capitated payment basis under section 1876 of the Act, as well as a broader range of plans comparable to those now available through private insurance. Specifically, effective January 1, 1999, section 1851(a)(2) of the Act provides for three types of M+C plans:

- M+C coordinated care plans, including HMO plans (with or without point of service options), provider-sponsored organization (PSO) plans, and preferred provider organization (PPO) plans.
- M+C medical savings account (MSA) plans (that is, combinations of a high deductible M+C health insurance plan and a contribution to an M+C MSA).
- M+C private fee-for-service plans.

In addition to expanding the types of health plans permitted to contract with Medicare, the M+C program introduces several other fundamental changes to the managed care component of the Medicare program. These changes include:

- Establishment of an expanded array of quality assurance standards and other consumer protection requirements.
- Introduction of an annual coordinated enrollment period, in conjunction with the distribution by HCFA of uniform, comprehensive information about participating plans that is needed to promote informed choices by beneficiaries.
- Revisions in the way we calculate payment rates to the plans that will narrow the range of payment variation across the country and increase incentives for plans to operate in diverse geographic areas.
- Establishment of requirements concerning provider participation procedures.

B. Summary of Interim Final Rule

In our June 26, 1998 interim final rule (63 FR 34968), we set forth the new M+C regulations in 42 CFR part 422—Medicare+Choice Program. The major subjects covered in each subpart of part 422 are as follows:

- Subpart A—Definitions, including definition of types of plans, application process, and user fees.
- Subpart B—Requirements concerning beneficiary eligibility, election, enrollment and disenrollment procedures, and plan information and marketing materials.
- Subpart C—Requirements concerning benefits, point of service options, access to services (including rules on enrollee assessments and notification upon termination of specialists), and others.
- Subpart D—Quality assurance standards, external review, and deeming of accredited organizations.
- Subpart E—Provider participation rules and the prohibition against interference with health care professionals' advice to enrollees.
- Subpart F—Payment methodology for M+C organizations, risk adjustment, and encounter data requirements.
- Subpart G—Requirements concerning premiums, cost sharing, and determination of adjusted community rate.
- Subpart H—Requirements concerning provider-sponsored organizations (PSOs).
- Subpart I—Organization compliance with State law and preemption by Federal law.
- Subpart K—Contract requirements.
- Subpart L—Change of ownership rules.
- Subpart M—Beneficiary grievances, organization determinations, and appeals.
- Subpart N—Contractor appeals of nonrenewals or terminations of contracts.
- Subpart O—Procedures for imposing intermediate sanctions.

On October 1, 1998, we issued a correction notice in the **Federal Register** (63 FR 52610) to correct technical errors that appeared in the interim final rule. All references in this document to regulation text are to the corrected text unless otherwise noted.

C. Number and Type of Public Comments

We received 87 items of correspondence containing comments on the June 26, 1998 interim final rule. Commenters included managed care organizations and other industry representatives, representatives of physicians and other health care professionals, beneficiary advocacy groups, representatives of hospitals and other providers, insurance companies, States, accrediting and peer review organizations, members of the Congress, and others. Consistent with the scope of the June 26, 1998 rule, most of the

comments addressed multiple issues, often in great detail. Listed below are the five areas of the regulation that generated the most concern (30 to 50 comments):

- Access issues, including requirements concerning coordination of care, initial assessments of enrollees' health care needs, timely pre-approval of post-stabilization services, and notification responsibilities when an organization terminates its relationship with a specialist.
- Quality improvement standards.
- Payment rates and service area policy.
- Provider participation rules.
- Beneficiary appeals and grievances.

Among the other issues that generated substantial numbers of comments were:

- Eligibility, election, and enrollment policies.
- Marketing restrictions.
- Risk adjustment methodology and encounter data submission.
- Contractual requirements.
- Preemption of State law by Federal law.
- May 1 deadline for Adjusted Community Rate (ACR) submissions and capacity waivers.

We also received many general comments on the M+C program and the impact of the interim final rule.

II. Provisions of This Final Rule

A. Summary

This final rule addresses a limited number of issues raised by commenters on the June 26, 1998 interim final rule. We have attempted to address some of the issues that provoked the most public comment, particularly in cases where we have become convinced that changes are necessary and have developed the policies necessary to implement the changes. We also have included policy clarifications in certain areas where the material in the interim final rule has been misinterpreted. Finally, to the extent possible, we are addressing time-sensitive issues, such as those that need to be resolved before publication of the comprehensive M+C final rule or those that may affect plans or beneficiaries in areas where Medicare risk contractors have chosen not to participate in the M+C program in 1999.

We intend to address all other issues raised by commenters on the M+C interim final rule in a comprehensive M+C final rule to be published later in 1999. (For example, this rule does not deal with any issues related to the quality standards contained in Part 4221 subpart D of the regulations.)

On September 28, 1998, we issued Interim Quality Improvement System for Managed Care (QISMC) Standards that reflected the M+C interim final regulation as published in June 1998. To the extent that the changes contained in this regulation require changes to QISMC, we will issue these changes shortly. We will issue a final QISMC document after we have issued the comprehensive M+C final rule, later in 1999.

B. Effective Date of Guaranteed Issue for Medigap Insurance

Section 4031 of the BBA established new rules under which Medicare beneficiaries are eligible to purchase a Medicare supplemental (Medigap) policy on a ''guaranteed issue basis.'' Some of the situations addressed by the BBA involve beneficiaries who leave M+C plans (or managed care risk plans under section 1876 of the Act) and return to original Medicare. In the June 26, 1998 interim final rule, we indicated that further guidance on this subject was available from the National Association of Insurance Commissioners (NAIC), which had incorporated the BBA's Medigap changes into a revised Model Regulation issued on April 29, 1998. The Model Regulation suggested that the guaranteed issue provisions do not become effective until January 1, 2002, for an enrollee in an M+C organization whose contract terminates. (The NAIC subsequently determined that this effective date was incorrect, as discussed below.)

Comment: Several commenters asked us to clarify that the BBA protection regarding the guaranteed issue of Medigap policies A, B, C, and F took effect on July 1, 1998. They believe that this clarification is necessary to eliminate confusion resulting from the NAIC's original, erroneous interpretation that this guarantee was not effective until 2002. One commenter pointed out that this error stemmed from a misinterpretation of certain provisions of section 1851(e) of the Act, which discusses the circumstances under which a beneficiary who is enrolled in an M+C plan may disenroll from the plan and enroll in another M+C plan. The commenter offered a detailed analysis of the appropriate interpretation of these provisions.

Response: HCFA and the NAIC agree that the guaranteed issue provisions of the BBA became effective on July 1, 1998. On December 4, 1998, we published a notice in the **Federal Register** to clarify that, as a matter of Federal law, the guaranteed issue provision of section 1882(s)(3)(B)(ii) of the Act (added by section 4031(a) of the BBA) takes effect July 1, 1998; continues in effect through and beyond 2002; and applies to any individual whose M+C election terminates under the ''circumstances'' specified in subparagraphs (A) through (D) of section 1851(e)(4) (63 FR 67081). (The notice also points out that the NAIC issued a memorandum on October 16, 1998, indicating that there was a mistake in its Model Regulation and that the effective date was July 1, 1998, not January 1, 2002.) As explained in detail in the December 4, 1998 notice, we agree with the commenter's analysis as to the appropriate interpretation of the provisions of section 1851(e). How these provisions are interpreted also has implications for beneficiaries' enrollment options under the M+C program, as discussed below in section II.C.

C. Clarification of Effective Date of Obligation to Accept Enrollments During Special Election Periods (§§ 422.60 and 422.62)

Under § 422.60(a)(1), M+C organizations are required to accept without restrictions enrollments from eligible beneficiaries during initial coverage election periods, annual election periods (during the month of November each year), and special election periods. While the foregoing obligations to accept enrollees do not have a separate effective date from the general effective date of the June 26, 1998 M+C regulations, as in the case of the Medigap provisions discussed in section II.B above, there has been confusion about the effective date of the obligation to accept new enrollments during special election periods. This confusion results from the fact that the description of special election periods appears in § 422.62(b), a provision that specifies when individuals are entitled to disenroll from an M+C plan after disenrollment rights become limited in 2002 (or earlier in the case of an MSA plan). Because this disenrollment rights provision in § 422.62(b) is prefaced by a 2002 effective date (with a 1999 effective date for MSA plans), it is possible that the obligation under § 422.62(a)(1) to accept enrollments during a special election period could be read not to apply until these dates. For the following reasons, we believe such a reading would be incorrect, and are clarifying in this rule that the obligation to accept enrollments during special election periods applies in years prior to 2002.

A failure to adopt this clarification would result in what we believe would be an unintended elimination (albeit temporary) of an important beneficiary protection that has been in place since the inception of the pre-BBA Medicare

risk program. There is no indication in the legislative history of the BBA that the Congress intended to eliminate a beneficiary's longstanding right to enroll in other plans when the organization in which he or she is enrolled ceases to contract with Medicare. Under section 1876(c)(3)(ii), when a contract under section 1876 ''is not renewed or is otherwise terminated,'' other HMOs with risk contracts ''serving part of the same service area as under the terminated contract are required to have an open enrollment period for individuals who were enrolled under the terminated contract as of the date of notice of such termination.'' Similarly, if an HMO nonrenews a portion of its service area, risk contractors serving that part of the service area ''are required to have an open enrollment period for individuals residing in that part of the service area . . . .'' This beneficiary protection permits beneficiaries enrolled in an HMO that ceases to participate as a risk contractor to enroll in another HMO that serves the same area.

The new M+C provisions in the BBA do not include a provision that imposes the above requirement in the same manner as it is imposed in section 1876. As in the case of the Medigap protections under section 1876(c)(3)(F) (discussed in section II.B above), the Congress adopted a different approach to providing a similar beneficiary protection previously addressed in a different way under section 1876. In the case of Medigap protections, the Congress replaced a requirement that HMOs provide protections to enrollees when a contract terminates with new requirements that apply directly to Medigap insurers. In this case, the Congress replaced a direct requirement that HMOs have open enrollment when a contract is terminated with an indirect requirement that M+C organizations accept enrollment when the circumstances (set forth under section 1851(e)(4)) that give rise to a right to disenroll exist. In both cases, there is no reason to believe that the Congress intended to deprive beneficiaries of the benefits of these protections between 1999 and 2002. Indeed, there would be no rational reason for doing so.

Section 1851(e)(6), which is implemented in § 422.60(a)(1), requires that M+C organizations accept enrollments during initial enrollment periods, during the month of November, and during special election periods ''described in'' the first sentence in section 1851(e)(4). The first sentence in section 1851(e)(4) sets forth the circumstances under which a beneficiary is permitted to disenroll after 2002, when the beneficiary ''lock in'' will go into effect. The first sentence in section 1851(e)(4) accordingly is prefaced with the clause ''[e]ffective as of January 1, 2002.'' As one commenter noted, ''The reference to January 1, 2002 specifically addresses the movement from one Medicare+Choice plan to another, and is part of a clearly laid out section that provides a gradual transition from the current system of totally free movement between plans to a restricted system of annual 'lock-ins'. The need for exceptions does not exist before January 1, 2002, and so the provision does not become effective until that date.''

Thus, we believe that the reference to January 1, 2002 is best interpreted as relevant only for purposes of the right to *disenroll* that is the subject of section 1851(e)(4) itself, and not for purposes of the separate obligation to accept enrollments under section 1851(e)(6). In other words, section 1851(e)(6) incorporates the underlying circumstances that give rise to the right to disenroll, and provides that M+C organizations must accept enrollments when these circumstances exist. It does not incorporate the reference to 2002 in the first clause. Included in the circumstances listed under section 1851(e)(4) is the situation in which an organization's contract has been terminated ''or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides.'' Accordingly, for all plans offered by M+C organizations, the organization currently must accept enrollments from eligible individuals if an M+C plan is discontinued in the area the organization serves or under any of the other circumstances described in § 422.62(b). (We note that the organization would not have to accept enrollment in a plan that has reached its enrollment capacity, consistent with § 422.60(b).)

This interpretation is consistent with our interpretation of the new Medigap protections in the BBA (see section II.B and our December 4, 1998 **Federal Register** notice), which similarly provide for beneficiary rights when the circumstances specified in section 1851(e)(4) exist.

In order to clarify our interpretation in the regulations text, we are revising § 422.60(a)(1) to clarify that while the circumstances described in § 422.62(b)(1) through (b)(4) are incorporated under § 422.60(a)(1), the effective dates for the disenrollment rights under § 422.62(b) are not.

D. Notification Requirement for Rule Changes (§ 422.111(d)(2))

Section 1852(c) of the Act lists several areas where an M+C organization must disclose specific information to each M+C plan enrollee. These requirements are set forth under § 422.111 and are, in large part, a codification of program administration requirements under section 1876 of the Act. Among the disclosure provisions is a requirement under § 422.111(d)(2) (carried over from § 417.436(c)) that if an M+C organization intends to change its rules for a plan, it must submit the changes to us in accordance with the procedures for approval of marketing materials under § 422.80 and then notify all enrollees 30 days before the effective date of the change.

Comment: Several commenters asked how this requirement interacts with related provisions under § 422.64, which concerns the comparative information that we distribute about M+C plans. A commenter noted that under the 30-day rule set forth at § 422.111(d)(2), an M+C organization presumably could change plan rules between the time that we distribute information about an M+C plan and the effective date of a beneficiary's enrollment in that plan. The commenter suggested that enrollees should be notified at least 90 days before the effective date of any changes in plan rules. Another commenter suggested that failure to provide proper notice should be reported to beneficiaries and lead to enforcement sanctions.

Response: Section 422.64, which is based on section 1851(d) of the Act, outlines the general and comparative information that we distribute to all M+C eligible beneficiaries as part of the annual ''open season'' notification. For the most part, the comparative information describes the benefits, premiums, and service areas of all M+C plans; this information is largely derived from the documents an M+C organization submits by May 1 as part of the ACR approval process. After January 1, 2002, this information may not be changed after the ACR is approved until the calendar year following the year for which the information is provided. Under § 422.300(b), prior to 2002, premiums or benefits may be changed after an ACR is approved if the changes add benefits or lower premiums or cost sharing.

While § 422.111(d) provides for 45-day advance submission to us and 30-day advance notice to enrollees of changes in M+C plan rules, this provision does not grant an M+C organization authority to change rules

that it is otherwise prohibited from changing. To the extent that an M+C organization is permitted to change rules (for example, grievance procedures disclosed under § 422.111(b)(8) or prior authorization procedures disclosed under § 422.111(b)(7)), it must submit the changes for us to review 45 days in advance, and give enrollees 30-days advance notice. This general rule would apply to changes in benefits, premiums, or cost sharing prior to 2002, as permitted under § 422.300(b). (Currently, the primary vehicle through which organizations inform enrollees of changes in plan rules is the Annual Notification of Change (ANOC).)

The requirement under § 422.111(d) that organizations notify plan enrollees at least 30 days before the intended effective date of any rule changes does not conflict with the intent of the statute, as implemented through § 422.64, that M+C eligible individuals receive accurate comparative information about available M+C plans through our annual information campaign. However, we recognize the need to ensure that information organizations distribute to enrollees in their plans reflects all rule changes that will be in effect as of January 1 of a given year. Thus, to eliminate any possibility of otherwise permissible rule changes during the annual open season period, we are revising § 422.111(d) to: (1) Indicate that the 30-day notification rule applies only for mid-year changes in plan rules; and (2) Specify that an M+C organization must notify enrollees by October 15 of any plan policy changes that are scheduled to take effect on the following January 1. Under this policy, for example, an M+C organization would submit its ANOC for our review by September 1 in order to allow for the 45-day review period required under § 422.80(a)(1). This will ensure that current enrollees (and, upon request, prospective enrollees) receive accurate information about all plan rules in time for the annual election period each November, as well as promote coordination in the information distribution efforts by us and M+C organizations.

E. Access to Services (§ 422.112)

Section 422.112 establishes a series of requirements aimed at ensuring that enrollees in M+C plans have adequate access to services. As discussed in our June 26, 1998 interim final rule (63 FR 34989), these requirements stem from section 1852(d) of the Act and existing regulations and policies under part 417, as well as addressing recommendations from the Consumer Bill of Rights and Responsibilities. Commenters addressed all aspects of these provisions, and we are continuing to consider their comments on many of the requirements contained in this section. In this limited final rule, we will address comments and clarify our policy on several access-related issues, as discussed below. We intend to address all other comments on access issues in the comprehensive final rule to be published later this year.

Please note that due to the numbering errors in the June 26, 1998 document, we published a correction notice in the **Federal Register** on October 1, 1998 (63 FR 52613). In that notice, we republished § 422.112 in its entirety. For purposes of this document, all references are to the corrected regulation citations.

1. Coordination of Care (§§ 422.112(a)(4) and (b))

Background. Section 422.112 imposes two separate coordination requirements. First, under § 422.112(a)(4), M+C organizations must have procedures that enable the organization to identify individuals with serious or complex medical conditions, assess and monitor those conditions, and establish and implement treatment plans. As indicated in the preamble to the June 26, 1998 regulations, this requirement was based on recommendations of the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, in its ''Consumer Bill of Rights and Responsibilities.'' Also, under § 422.112 (b), to ensure continuity of care, M+C organizations must make a variety of arrangements, including designating a practitioner ''having primary responsibility for coordinating the enrollee's overall health care,'' providing an ongoing source of primary care, and completing an initial assessment within 90 days of enrollment. As indicated in the preamble to the June 26, 1998 regulations, these provisions were based on the requirements developed as part of the Quality Improvement System for Managed Care (QISMC).

In view of the comments, we recognize the need to revise these provisions. The intent of these provisions will still be to require (1) plans to have procedures for identifying individuals with serious or complex medical conditions, assess and monitor those conditions, and implement treatment plans; and (2) ensure continuity of care. However, we need to allow for somewhat greater flexibility in arrangements since not all types of managed care plans require enrollees to be assigned to primary care providers (PCPs).

Approximately 13 public commenters addressed these coordination requirements. The comments and our responses are discussed below.

Comments on § 422.112(a)(4)

Comment: Several commenters requested that we define complex and serious medical conditions. One commenter recommended that M+C organizations be given discretion to define ''complex or serious medical conditions'' within broad parameters set by HCFA. Another commenter suggested that we delay implementation of the requirements until national criteria for the identification of complex and serious conditions are developed.

Response: The interim final regulation currently requires M+C organizations to develop procedures that enable the organization to identify individuals with complex or serious conditions, assess and monitor those conditions, and establish and implement treatment plans. The regulations do not place further requirements on M+C organizations as to these provisions. Thus, organizations have discretion to define the concept of a ''complex or serious condition.'' We plan to develop a definition of this term, which could result in further guidance on this set of issues. Until we provide further guidance, we expect organizations to adopt their own definition and procedures to implement these provisions.

Comment: One commenter stated that M+C organizations should be allowed to limit the number of visits to a specialist, and that they should be allowed to ensure that the PCP remains involved in the care plan so that the patient continues to receive preventive services and other services not provided by the specialist.

Response: The regulations do not prohibit limiting the number of direct access visits, as long as the number of direct access visits to the specialist is adequate, consistent with the treatment plan. Furthermore, the regulations do not prohibit an M+C organization from ensuring that a PCP is involved, and we would encourage this relationship.

Comment: One commenter stated that if a specialist develops the treatment plan, then he or she should be the one to update it. Another commenter suggested that organizations be required to use physicians to develop the treatment plans.

Response: We agree with the recommendation that if a specialist develops a treatment plan, then he or she should be the one to update it. Thus, we will delete the requirement

that the treatment plan should be updated by the PCP.

We have added the requirement that the M+C organization ''assures adequate coordination among providers.'' This requirement is added because of the changes in the coordination requirements in § 422.112(b), discussed below.

As to the development of the treatment plan, we believe that any health professional or a team of health professionals may develop the treatment plan.

Comment: One commenter requested that we require M+C organizations to permit enrollees with complex and serious conditions to have a choice of specialists; to use a specialist as their PCP; allow for the treatment plan to be updated by the PCP and the enrollee; and allow an enrollee who needs post-acute care to have a choice of post-acute provider in consultation with the PCP.

Response: While M+C organizations are encouraged to adopt these procedures, we do not believe that it would be appropriate to specify these requirements. As indicated above, we have eliminated the requirement that the treatment plan be updated by the PCP. Whoever develops the treatment plan is encouraged to consult with the enrollee.

Comment: Several commenters stated that requiring M+C organizations to develop treatment plans encourages over-utilization of specialists and micro-management of primary and specialty care.

Response: M+C organizations can control the number of visits to specialty care in the treatment plan. The development of treatment plans is good medical practice and is performed routinely in most medical settings.

Comment: One commenter (1) recommended that instead of direct access visits to specialists, we should require that M+C organizations operate comprehensive case management systems for chronically ill enrollees; and (2) contended that the BBA did not provide statutory authority to issue the requirements dealing with serious and complex conditions.

Response: The requirements are imposed pursuant to our authority under section 1856(b)(1) of the Act to establish M+C standards by regulation. These standards were based upon the President's Advisory Commission's ''Consumer Bill of Rights and Responsibilities'' mentioned above. While we encourage M+C organizations to develop comprehensive case management systems, this is not a requirement. We have determined that developing treatment plans that include an adequate number of direct access visits to specialists is the most appropriate requirement at this time.

Comment: Several commenters recommended that we require that the treatment plan for enrollees with complex and serious conditions be completed in either 14 or 30 days, and that these persons be reassessed every 90 days.

Response: M+C organizations are encouraged to consider these recommendations, but we do not believe it is necessary to specify these requirements. Existing provisions already require that the treatment plan be appropriate, time-specific, and updated periodically. Comments on § 422.112(b)

Comment: Several commenters stated that M+C organizations that have open access arrangements and PPOs cannot meet the requirements that organizations ensure continuity of care through the ''the use of a practitioner who is specifically designated as having primary responsibility for coordinating the enrollee's overall health care.'' They recommended that we revise these requirements to provide more flexibility for these types of M+C organizations.

Response: We concur with this recommendation. Therefore, we have made the following changes to this section:

(1) We have deleted the requirement that the M+C organization use a practitioner who has primary responsibility for coordinating health care. We recognize that open access plans and PPOs do not have a single professional who coordinates care, and that they may use other mechanisms to coordinate care.

(2) We have revised the requirement to specify that M+C organizations develop ''policies that specify under what circumstances services need to be coordinated and the methods for coordination.'' We have modified this requirement because not all organizations assign health care professionals to coordinate care; they may use other methods to achieve coordination where needed.

(3) We have modified the requirement that an M+C organization must provide an ongoing source of primary care, and instead require that an organization offer to provide each enrollee with an ongoing source of primary care and provide this source of primary care to all who accept the offer. Again, we modified this requirement because not all organizations require that enrollees be assigned to a PCP. However, all organizations are required to have an adequate network of PCPs and specialists and, thus, be able to ensure that every enrollee can have a PCP if he or she so chooses.

We have made these changes to the coordination provisions to provide sufficient flexibility to ensure that beneficiaries can choose the type of M+C plan option that best meets their needs. The Congress intended the M+C program to allow for maximum choice of types of plans and wants us to assure that all plans that have open arrangements are included in the program. Nevertheless, we still want to ensure coordination of care, and therefore we have maintained most of the various coordination requirements of this section and have made only a few changes to these requirements.

Furthermore, because of this increased flexibility, to ensure that adequate coordination occurs for complex or serious medical conditions, we have added to § 422.112(a)(4) the requirement that the M+C organization assures that adequate coordination occurs among providers.

2. Initial Care Assessments (§ 422.112(b)(5)(i))

Background. Another issue that we believe should be addressed at this time involves § 422.112(b)(5)(i), which requires M+C organizations to conduct an initial assessment of each enrollee's health care needs within 90 days of the effective date of enrollment. Although a number of commenters strongly endorsed the requirement, we received many other comments that indicated the need for further guidance to maximize compliance efforts by M+C organizations. The intent of the requirement is to ensure that organizations have sufficient information about enrollees to identify and meet the enrollees' health care needs. We believe that requiring initial assessments is consistent with current industry practices and need not result in burdening M+C organizations with additional administrative responsibilities.

Approximately 16 public comments addressed the initial assessment requirement. The comments and our responses are discussed below.

Comment: Many commenters requested that we clarify the ''form'' of the initial health assessment. Commenters inquired whether the assessment could be carried out through a telephone call, or mailed questionnaire, or whether it must be a physical examination. Further, commenters questioned whether, under certain circumstances, some enrollees could be exempted from the initial assessment requirement. For example, commenters indicated that an M+C

organization should not be required to complete an initial assessment for individuals who were commercial members of a managed care plan and then ''age-in'' to the organization's M+C plan. Similarly, enrollees who remain under the care of network providers or retain the same primary care provider, despite enrolling in a different M+C organization, should not be subject to the assessment requirement.

Response: We believe that M+C organizations should have the flexibility to choose the form and substance of the initial assessment. Thus, the assessment may take the form of a phone call, questionnaire, home visit, or physical examination. However, the assessment instrument must ensure that the M+C organization and its provider network have the information required for effective and continuous patient care and quality review, as required under § 422.112(b)(5). The assessment should also be sufficient to identify enrollees with complex or serious medical conditions, consistent with § 422.112(a)(4).

We recognize that in some situations it would be duplicative and unnecessary to subject certain enrollees to the initial assessment requirement. Consequently, we would not expect M+C organizations to conduct initial assessments on enrollees for whom the necessary, up-to-date information on their care needs is already available, such as enrollees who age-in, are already under the care of network providers, or who retain the same primary care provider when enrolling with a different M+C organization.

Comment: Several commenters suggested that we only require M+C organizations to make ''best efforts'' to conduct the initial assessment, since 100 percent compliance is not achievable. They asserted that 100 percent compliance is not an achievable standard because enrollees may refuse to cooperate in carrying out the initial assessment. Commenters requested that we identify the minimal standard an M+C organization should meet to comply with the initial assessment requirement. For example, one commenter suggested that if an M+C organization makes three unsuccessful attempts to contact an enrollee, to arrange for an initial assessment, this should be considered a sufficient ''best effort.''

Response: We understand that an M+C organization, through no fault of its own, may not be able to achieve full compliance with the initial assessment requirement. Rather than maintain a regulatory standard that may be unachievable, we are revising the regulation to require M+C organizations to make ''best efforts'' to conduct the initial assessment of each enrollee's health care needs within 90 days of the effective date of enrollment. We are specifying that a ''best-effort'' attempt must include following up on unsuccessful attempts to contact an enrollee. The revised regulation is not intended to release the M+C organization from its obligation to conduct the initial assessment, but to acknowledge that 100 percent compliance may not be a realistic standard.

We also recognize that some enrollees may refuse to cooperate with an organization's efforts to conduct the initial assessment. If this occurs, the M+C organization should fully document the refusal in the enrollee's medical record.

Comment: Some commenters suggested that we should delay implementing the initial assessment requirement until an instrument is developed that sufficiently identifies complex or serious medical conditions.

Response: As noted above, we believe that an M+C organization should have the flexibility to use an assessment instrument of its own choice. Although we are not providing further specifications for the health assessment at this time, we may do so in the future. We will work with plan, industry, provider, and consumer representatives in developing further guidance in this area. Also, as discussed above, we are working to better define the concept of complex or serious medical conditions.

Comment: Two commenters suggested that we clarify who will pay for the initial assessment. They also requested that we require M+C organizations to provide accurate eligibility lists to the primary care provider in a timely manner.

Response: M+C organizations are required to either directly furnish or arrange for the initial assessment. Like all other services provided by an M+C organization, initial assessment costs are covered in the capitated payment paid to the M+C organization. Provider compensation will depend upon the contractual relationship between the provider and the M+C organization.

We recognize that providing accurate eligibility lists is a desirable administrative practice. However, we do not believe it is necessary to require M+C organizations to provide eligibility lists, unless we subsequently determine that absence of such a requirement results in noncompliance with the initial assessment provisions.

Comment: One commenter requested clarification regarding the point in the enrollment process after which the M+C organization could conduct the initial assessment. Another commenter suggested that we require that the assessment be conducted within 30 days of enrollment.

Response: As stated above, M+C organizations are required to conduct the initial assessment within 90 days of the effective date of enrollment. We believe this is a reasonable minimum standard, when viewed in conjunction with related access requirements under § 422.112, such as an appropriate treatment plan for individuals with serious medical conditions and the requirement for timely access to care and member services. Given the potential for pre-enrollment health screening, it is not appropriate for an M+C organization to conduct the initial assessment before the effective date of enrollment.

3. Involuntary Terminations (§ 422.112(a)(5))

Background. In our June 26, 1998 interim final regulation, § 422.112(a)(2) established the requirements that an M+C organization must meet when it terminates an M+C plan or specialist. Subsequently, due to the numbering errors in the June 26, 1998 document, we published a correction notice on October 1, 1998 (63 FR 52613), which sets forth these ''involuntary termination'' requirements under § 422.112(a)(5). For purposes of this document, all references are to the corrected regulation citations. Section 422.112(a)(5) provides that if an M+C organization terminates an M+C plan or specialist other than for cause, the M+C organization must inform beneficiaries at the time of termination of their right to maintain access to specialists, provide the names of other M+C plans in the area that contract with specialists of the beneficiaries' choice, and explain the process the beneficiary would need to follow should he or she decide to return to original Medicare.

Comments and Responses

We received fourteen comments on the involuntary termination provisions. Several commenters remarked that the numbering of the section was confusing and mistaken. As noted above, we made the appropriate changes in the October 1, 1998 correction notice.

Comment: One commenter questioned the statutory source of a beneficiary's right to maintain access to specialists.

Response: Section 1852(d)(iv) of the Act requires M+C organizations to provide access to the appropriate providers, including credentialed

specialists, for medically necessary treatment and services.

Comment: Most of the comments on § 422.112(a)(5) opposed these notification requirements. As discussed in detail below, these commenters cited a variety of reasons for their opposition, including the administrative burden and feasibility of obtaining the necessary information, unnecessary duplication in the regulations, and absence of necessary detail. Although most commenters opposed the notification requirements, one commenter asserted that the requirements were reasonable and necessary to protect the interests of Medicare beneficiaries. This commenter recommended that the notification requirements apply for all terminations of physicians and other health care professionals, rather than only for terminations of specialists.

Commenters raised the following objections:

(1) Administrative burden and feasibility.

Commenters objected to the perceived administrative burden associated with the notification requirements of § 422.112(a)(5). In particular, commenters found infeasible the provision that plans must provide the names of other M+C plans in the area that contract with specialists of the beneficiary's choice. They noted that plans do not have access to competing plans' network information. They stated that details of another plan's contractual relationships with its specialists was proprietary information. Commenters also argued that § 422.112(a)(5) would be difficult for plans to implement because they do not track real-time information regarding which beneficiaries are receiving care from specific specialists.

(2) Unnecessary duplication in the regulations.

Commenters pointed out that in several areas, the provisions of § 422.112(a)(5) overlap with other provisions of the M+C regulations. Several commenters mistakenly referred to the general notification requirements under § 422.111(e) when discussing the requirements for involuntary terminations of specialists under § 422.112(a)(5). Others simply noted that the two sections both dealt with provider terminations and that this duplication served no purpose. Some commenters also stated that it was confusing and unnecessary to include both plan and specialist terminations in § 422.112(a)(5), since enrollee notification upon plan termination was addressed previously in § 422.62. Other commenters assumed that these provisions implied that an enrollee whose specialist was terminated was free to disenroll from his or her plan and have a special election period as described under § 422.62(b).

(3) Absence of necessary detail.

Several commenters found it unclear which beneficiaries must be notified when a specialist is terminated. Also, they asked for further guidance regarding the meaning of terms such as ''other than for cause'' and ''involuntary termination.''

In view of these objections, commenters proposed several alternatives. Some suggested we delete § 422.112(a)(5) entirely. Others recommended that it should suffice for an M+C organization to inform those beneficiaries who had been under the treatment of the formerly contracted specialist how they can access comparable specialty services within the plan.

Response: Based on these comments, we recognized that revisions to § 422.112(a)(5) were necessary. We considered revising § 422.112(a)(5) by replacing the requirement that an M+C organization must provide the names of other M+C plans in the area that contract with specialists of the beneficiary's choice with the requirement that the M+C organization must provide the names of specialists within the plan's provider network through whom enrollees can obtain necessary care. Instead, after careful review of both the comments regarding duplicative regulations and of the regulations themselves, we believe that the better course is to delete § 422.112(a)(5) completely.

Under the notification requirements § 422.111(e), an M+C organization must make a good faith effort to provide written notice of the termination of a contracted provider within 15 working days to all enrollees who are patients seen on a regular basis by the provider whose contract is terminating, irrespective of whether the termination was for cause or without cause. Thus, notification to beneficiaries is not limited to the termination of specialists, but includes other physician and provider types. Furthermore, § 422.111(e) applies to all types of terminations, not just those that are ''involuntary'' and ''other than for cause,'' as under § 422.112(a)(5). Given the elimination of the requirement that M+C organizations must provide the names of other M+C plans in the area that contract with specialists of the beneficiary's choice, we believe that having separate notification requirements in § 422.112, ''Access to services,'' serves no purpose.

Similarly, we believe that the notification requirements for plan termination in § 422.112(a)(5) are sufficiently addressed in § 422.62(b) and § 422.74. Thus, it is unnecessary to include notification requirements for plan termination in § 422.112(a)(5). Consequently, we are deleting § 422.112(a)(5) in its entirety.

Thus, we agree with commenters that § 422.112(a)(5) unnecessarily duplicates other M+C provisions. Moreover, this overlap serves as a real source of confusion as evidenced by the mistakes commenters themselves made. For example, we believe the similarity between § 422.62(b) and § 422.112(a)(5) prompted commenters to mistakenly assume that § 422.112(a)(5) entitles an enrollee whose specialist is terminated to disenroll from his or her plan and have a special election period.

More importantly, we believe removing § 422.112(a)(5) from the M+C regulation in no way compromises a Medicare beneficiary's access to adequate health care from all appropriate providers. We are convinced that the remaining provisions, particularly § 422.111(e), continue to require adequate notification and access requirements for needed care, including specialty care. Finally, we would expect that the specialists themselves would be both best able and most willing to inform their own patients of their other plan affiliations; plans should not interfere with the ability of providers to communicate such information to their patients.

In addition to the fact that we deemed §§ 422.111(e), 422.62(b), and 422.74 more than adequate safeguards of a beneficiary's access to needed care, we also realized that portions of § 422.112(a)(5)'s requirements were major obstacles to its effective implementation. We agree that it may be impractical for plans to ascertain with which other plans a given specialist contracts. Furthermore, it may be unreasonable to expect M+C organizations to turn over their specialist lists to competing organizations.

We note that the deletion of § 422.112(a)(5) renders moot the terminology questions about which types of terminations were subject to these requirements. After the removal of § 422.112(a)(5), the notification standard for which enrollees are to be notified is the ''regular basis'' standard articulated in § 422.111(e). As stated previously, application of this standard is not limited to specialists, but instead includes all contracted providers.

Comment: Two commenters wanted to know if the provisions for involuntary termination were related to the special requirements for individuals with complex or serious medical conditions.

Response: We believe this comment was prompted by the organization of § 422.112(a), which was revised in the October 1, 1998 correction notice. Like the requirements concerning individuals with complex medical conditions, the involuntary termination provisions are concerned with an enrollee's access to specialists. However, the involuntary termination requirements are not limited to individuals with serious medical conditions.

F. Provider Participation Rules (§§ 422.202 and 422.204)

Section 1852(j) of the Act sets forth the statutory provisions regarding provider participation. These provisions include rules regarding participation procedures, consultation in medical policies, prohibitions on interference with provider advice to enrollees, and limitations on physician incentive plans. Regulations implementing these rules are located in subpart E of part 422. Although we received many comments on all aspects of the subpart E regulations, the two areas that generated the most controversy were the notice and appeal rights associated with provider participation procedures (§ 422.202(a)) and the related provider rights associated with denials, suspension, or terminations of contracts (§ 422.204(c)). In this final rule, we will address comments on these two areas; comments on other aspects of subpart E will be addressed in the subsequent final rule.

Section 1852(j)(1) establishes the underlying requirements for the regulations under discussion here. The statute generally requires that an M+C organization establish ''reasonable procedures,'' under an agreement between a physician and the organization, governing the participation of a physician under an M+C plan. It then specifies that these procedures include—

- Providing notice of the rules regarding participation;
- Providing written notice of participation decisions that are adverse to physicians; and
- Providing a process within the organization for appealing adverse decisions.

These requirements represented new Federal requirements for Medicare contracting organizations. Thus, as discussed in our June 26, 1998, interim final rule (63 FR 34967), we consulted a variety of sources in developing the regulations necessary to implement the provisions of section 1852(j)(1). Under our broad authority under section 1856(b)(1) to establish M+C standards by regulation, the implementing regulations included several discretionary provisions. Foremost among these were the following:

- Specification of the types of participation rules that are subject to the disclosure, notification, and appeal rights established by the statute.
- Application of the provider participation procedures to practitioners other than physicians.
- Requiring advance notification of material changes in a broad range of provider participation rules.
- Establishment of specific procedures, and applicability rules, relating to the appeal of adverse decisions involving participation rules.

We received 30 comments on these issues. Eighteen commenters, mainly beneficiary advocacy groups or representatives of physicians and other health care professionals, generally supported the new provider participation rules. Twelve commenters, generally representing managed care organizations, expressed opposition to the changes. Discussed below are the comments we received on these issues and our responses to those comments.

Comment: Noting that the statute generally applies the standards for provider relationships with M+C organizations only to physicians, four commenters objected to our decision to apply these protections to all health care professionals. They believe that this expansion contradicts the clear intent of the statute and imposes an unwarranted burden on M+C organizations. Other commenters strongly supported the decision to apply the provider participation rules to both physicians and other health care professionals. Several commenters requested that the list of providers to whom the participation rules apply be expanded to include institutional providers, such as hospitals, nursing homes, and Federally qualified community health centers (FQHCs), as well as pharmacies.

Response: As commenters noted, the requirements of sections 1852(j)(1) and (j)(2) of the Act, concerning provider participation procedures and consultation in medical policies, respectively, apply specifically to plan relationships with physicians. In the interim final rule, we extended these provisions in §§ 422.202 and 422.204 of the M+C regulations to include health care professionals other than physicians. The list of health care professionals generally encompassed all licensed, independent practitioners for whom coverage for services could be provided under an M+C plan.

We have carefully reviewed both the statute itself and the comments on this issue. We note that section 1852(j)(3) of the Act, concerning prohibiting interference with provider advice to enrollees, is not limited to physicians but applies to all health care professionals. Thus, an argument can be made that the limited applicability of the provisions in sections 1851(j)(1) and (j)(2) to physicians clearly suggests that the Congress intended to exclude health care professionals other than physicians from the protections of these provisions. Based on this review, we have decided to revise the regulations to comply with the strict statutory construction of these provisions. Thus, we are revising the appropriate provisions of §§ 422.202 and 422.204 so that the applicable notice and appeal rights and consultation requirements will apply only to physicians, as defined under section 1861(r) of the Act.

We recognize that many commenters believe that it is appropriate to extend the statutory provider participation protections to health care professionals other than physicians, and that many States as well as the NCQA have adopted standards that apply these rules to all ''practitioners.'' Moreover, we continue to believe that section 1856(b)(1) clearly provides the Secretary with the authority to establish these standards. However, given that the introduction of the M+C provider participation requirements reportedly may prove difficult for many M+C organizations to implement, we have become convinced that the most prudent policy at this time is to limit the applicability of these provisions to physicians, as specified in the statute.

Comment: Several commenters objected to what they perceive as the expansive interpretation under § 422.202(a) of what constitute ''participation rules.'' They believe that the examples included under § 422.202(a)(1) of what are considered ''participation rules'' are much broader than those intended under the BBA. These commenters indicated that the breadth of the participation rules, particularly when combined with the provider appeal rights provisions under § 422.204(c), place unreasonable and unwarranted administrative burdens on M+C organizations without producing any concomitant benefits for M+C enrollees. Specifically, they asserted that the regulatory interpretation of ''participation rules'' includes most of an organization's administrative policies

and procedures, rather than only those that directly related to decisions about provider participation.

Response: As noted above, section 1852(j) of the Act requires that a plan have reasonable procedures that include providing written notice of the rules regarding participation. Because neither the statute nor the existing part 417 regulations, which did not include provider participation procedures, provide guidance as to what is meant by ''participation rules,'' we looked to other sources. The examples of participation rules that are established under § 422.202(a)(1) stem largely from section 6 of the NAIC's Managed Care Plan Network Adequacy Model Act. (This model act focuses on the establishment of written agreements establishing participation standards between managed care plans and participating providers.) As stated in the preamble of the June 26, 1998, interim final rule, our intent was to adopt a ''broad definition of procedures that might affect participation'' including all procedures that might affect how a provider would participate in a plan (63 FR 35000).

Based on our review of the comments, we agree that this interpretation is unnecessarily expansive. We believe that it is preferable to adopt a narrower interpretation of what constitute ''rules regarding participation'' that would focus on whether a physician can participate under a given M+C plan. Thus, we are revising § 422.202(a)(1) to indicate that the written notice of the rules of participation will include terms of payment, credentialing policies, and other rules directly related to participation decisions. We are deleting from the regulations reference to other administrative policies and programs that are unlikely to directly affect a physician's participation, such as utilization review procedures, data reporting, confidentiality policies, etc. We believe that this change will ensure that the related requirements under § 422.202(a), such as the notice of material changes and the appeal rights for adverse decisions cannot be construed to include policies that are not directly related to participation decisions. We would still expect an M+C organization to distribute full information about its administrative policies to participating physicians, as well as to other participating health care professionals and providers, and these changes would not affect the organization policies subject to the consultation requirements of § 422.202(b).

Comment: In view of our interpretation of the scope of participation rules, several commenters suggested that an M+C organization should not be required to disclose its participation rules to all health care professionals, but only to indicate that the rules existed and would be made available upon request. These commenters also indicated that requiring M+C organizations to disclose their participation rules to prospective providers would result in dissemination of what they consider proprietary information.

Response: As discussed above, we have narrowed both the applicability and the scope of the provider participation procedures required under § 422.202(a). We continue to believe, as noted in the June 26, 1998 interim final rule (63 FR 35000), that advance disclosure of the required participation rules to potential participating physicians is the best way to reduce subsequent appeals. However, we note that the regulations only require that an M+C organization have reasonable procedures in this regard. We do not believe that the policy of disseminating participation rules upon request is inherently unreasonable, but we also do not intend to mandate the release of what an organization considers proprietary information.

Comment: Commenters both supported and opposed the requirement under § 422.202(a)(2) that a plan's procedures include providing health care professionals with written notice of material changes in participation rules before those rules take effect. Again, commenters asserted that the scope of this requirement was overly broad, and recommended that the notification be limited to changes that affect the terms or conditions of a health care professional's participation. Three commenters suggested that changes mandated through Federal law or regulation should be exempted from the advance notification requirement. Another commenter asked whether an M+C organization was required to obtain signatures from health care professionals to acknowledge receipt of the notice.

Response: We believe that reductions in the scope of what constitute participation rules should negate most of these objections. We agree that in the unlikely event that immediate changes are mandated through Federal law or regulation, an organization should be exempt from the requirement that written notice be provided before the changes are put into effect. There is no requirement that an organization obtain signatures acknowledging receipt of a notice of changes, although an organization is free to make this policy part of its participation procedures.

Comment: Commenters asked for an explanation of the meaning of a ''material'' change under § 422.202(a)(2) and of an ''adverse'' decision under § 422.202(a)(3).

Response: We believe that these are widely used terms that are generally understood, and do not believe that it would be appropriate to specify more detailed criteria as to how these terms should be applied. We believe that M+C organizations will be in the best position to determine whether a change in rules would be significant enough to be considered ''material'' as this term is generally defined. We assume that any change that could affect participation decisions would be material. Similarly, it should be fairly clear whether a change would be viewed as adversely affecting a physician.

Comment: The requirement under § 422.202(a)(4) that an M+C organization's provider participation procedures include establishment of a process for appealing adverse decisions also provoked mixed responses, as did the accompanying requirement that the appeals process for termination decisions conform to the requirements of § 422.204(c). One commenter suggested that we clarify under § 422.202(a)(4) that the requirement for an appeals process only applies in cases of adverse ''participation'' decisions, not any decision that a health care professional views as adverse. Approximately 10 commenters strongly supported these requirements, with several requesting that we add more specificity to the appeals procedures required in termination cases, including an opportunity for a terminated health care professional to obtain a reconsideration by HCFA of a denied appeal.

Other commenters objected to various aspects of these requirements, including both the scope of their applicability and what they perceived as the overly prescriptive detail of the appeal procedures in termination cases. One particular point of contention was the application of the appeals requirements to denials of an initial application to participate. Commenters believe requiring M+C organizations to convene hearing panels whenever a health care professional is denied participation under a plan was unreasonable, especially if we have already approved the plan network's adequacy.

Several commenters suggested that we make a distinction between (1) situations where an organization refuses to accept a health care professional's application to participate under a plan

(presumably because it already has sufficient practitioners of a given type) and (2) situations where the organization denies participation to a specific health care professional based on review of an application, while continuing to accept applications generally. Other commenters asserted that contract nonrenewals and expirations should not be considered denials, citing parallels with our contract nonrenewal policies; one of these commenters also noted that we should permit ''mutual consent'' terminations without the comprehensive disclosure and notification material required under § 422.204(c)(1). One commenter suggested that appeal rights should only apply when a termination is based on quality of care issues, not when a termination was simply a ''business decision.''

Response: In light of our narrowed definition of participation rules, we agree to the suggestion that ''participation'' be inserted between ''adverse'' and ''decisions'' in § 422.202(a)(4). We also agree that it would not be appropriate to grant appeal rights to physicians who have never been accepted into the M+C organization's network, and that the Congress intended only that an organization grant rights to its current contracting physicians. This interpretation is supported by the fact that section 1852(j)(1) refers to the required procedures as being ''under an agreement between a physician and an organization.'' To clarify this point, we have revised § 422.204(c)(1) by deleting the reference to ''denials'' of an agreement.

In support of the contention that physician contract nonrenewals and expirations should not be subject to appeal, commenters erroneously stated that this is the case with respect to HCFA non-renewal decisions. In fact, as set forth in subpart N of part 422, these decisions are subject to appeal. With respect to ''mutual consent'' terminations, to the extent the physician is voluntarily leaving the organization's network, we agree that appeal rights do not have to be provided.

Finally, we have not adopted the suggestion to limit appeal rights to situations where terminations are based on quality of care issues. We believe that the elimination of appeal rights for any termination characterized as a ''business decision'' would undermine the intent of the provider protection provisions.

Comment: As noted above, several commenters recommended that we add more specificity to the appeals procedures required in termination cases, including an opportunity for a terminated health care professional to obtain a reconsideration of a denied appeal before HCFA. Other commenters objected to what they perceived as the overly prescriptive detail of the appeal procedures in termination cases. One commenter suggested that although it supported the overall principle that requires appeals for adverse participation decisions, it was concerned that the detailed due process requirements established under § 422.204(c) may be overly burdensome.

Other commenters strongly objected to both § 422.204(c)(1), which spells out the required elements of a notification of denial, suspension, or termination, and to § 422.204(c)(2), which provides for a hearing panel composed of a majority of ''peers'' of the affected health care professional. They particularly objected to the release of ''standards and profiling data'' and the numbers and mix of health care professionals needed by the plan, and indicated that these required elements would prove unduly burdensome, intrusive, and often irrelevant to a given case. These commenters also asserted that the use of peer panels was unnecessary and difficult to implement, particularly when nonphysicians were involved. Again, a number of commenters representing health care professionals supported these requirements in their entirety.

Response: Again, the reductions in the scope and applicability of participation procedures under subpart E of part 422 should reduce concerns that the related due process requirements will be overly burdensome. In particular, we believe that the requirement to convene a hearing panel composed of a majority of peers of the affected physician should not prove difficult to implement. We do not believe it is appropriate for us to establish an independent process for resolving participation disputes between physicians and M+C organizations. Such a process would constitute unwarranted interference in the business relationships between M+C organizations and physicians.

We agree that it may not be necessary in all cases for an M+C organization to include in its written notice to a physician information about the standards and profiling data used to evaluate the physician and the numbers and mix of physicians that the organization needs. Therefore, we are revising § 422.204(c)(1) to indicate that this information must be included in the notification of a decision to suspend or terminate an agreement with a physician only to the extent that it is relevant to the decision.

G. Risk Adjustment and Encounter Data (§§ 422.256(d) and 422.257)

Section 1853 of the Act sets forth the requirements related to calculating the annual capitation rates for the M+C program. These provisions were discussed in detail in the June 26, 1998 interim final rule (63 FR 35004). Effective by no later than January 1, 2000, section 1853(a)(3)(C) of the Act requires that the Secretary implement a risk-adjusted payment methodology that accounts for variations in per capita cost based on health status and other demographic factors. Section 1853(a)(3)(B) addresses the collection of encounter data from M+C organizations that are needed to implement a risk adjustment methodology. The regulatory requirements needed to implement these BBA provisions are set forth in subpart F of part 422. We published a notice in the **Federal Register** on September 8, 1998, soliciting further recommendations about the methodology for implementing risk-adjusted payments (63 FR 47506).

We received about 20 comments from managed care industry representatives and others recommending that we delay or phase in the adoption of risk-adjusted M+C payments. Many of these commenters also expressed concern over our plans to collect encounter data. We have considered these comments, as well as those received in response to the September 8, 1998, notice. As required under section 1853(b)(2) of the Act, we released on January 15, 1999, the Advance Notice of Methodological Changes for CY 2000 Medicare+Choice Payment Rates. In this notice, we describe the risk adjustment methodology that will be employed in determining M+C payments in 2000, including the transition strategy that we have adopted as part of that methodology. We also respond in the notice to the major issues raised in the comments that we have received on risk adjustment. We will, however, respond formally to the comments in the comprehensive M+C rule to be published later in 1999. The January 15, 1999, notice is available on the HCFA Web site (http://www.hcfa.gov/stats/hmorates/45d1999/45day.htm).

H. May 1 Deadline for ACR Submissions and Enrollment Capacity Limits (§ 422.306(a))

Consistent with section 1854(a) of the Act, an M+C organization must submit by May 1 of each year an ACR proposal for each plan it wishes to offer in the following year. Regulations

implementing this requirement are set forth under § 422.306. The ACR submission must identify the service area and enrollment capacity of each plan. As discussed in the June 26, 1998 interim final rule, these requirements will apply for contract periods beginning on or after January 1, 2000.

Comment: Several commenters representing managed care organizations indicated that they believe that the May 1 deadline for ACR submissions is too early. They noted that this deadline is 4 months earlier than the deadline under section 1876 and cited the new ACR proposal methodology, difficulties in collecting necessary data, and pricing uncertainties as reasons why the May 1 deadline is unreasonable. Commenters suggested moving the date for ACR submissions back to either July 1 or August 1, or keeping the May 1 deadline but allowing a subsequent opportunity to make limited modifications to benefits, premiums, or copayments. Commenters also inquired as to what if any changes we intend to make regarding implementation of our service area policy.

Response: Although we recognize the difficulties inherent to estimating the costs of a benefit package for 2000 based on at most 4 months of experience under the 1999 benefit package, the May 1 deadline stems from section 1854(a) of the Act and thus is not discretionary. (We note that the President's FY 2000 budget includes a proposal that would permit us to extend the deadline for ACR submissions until July 1.) We intend to issue instructions concerning implementation of service area policy and other requirements for 2000 in advance of the May 1, 1999, deadline for ACR submissions. We can assure M+C organizations that we will not introduce any policy modifications via the subsequent comprehensive M+C final rule that would impose any significant new administrative requirements on M+C plan operations before the year 2000 ACR submission and review cycle.

Comment: Commenters indicated that requiring an organization to establish a capacity limit by May 1 was very difficult, given that it may be impossible to confirm the participation of provider groups at that time. They asked that this deadline be extended.

Response: Again, section 1854(a)(1)(B) of the Act specifies that an M+C organization must inform HCFA of any limit on enrollment capacity by May 1 of a given year. However, we recognize the possibility of changing circumstances after that time, and would not want an organization to limit its enrollment unnecessarily or be forced to accept enrollees without being able to ensure proper access to care. Therefore, we intend to establish an administrative process for reviewing requests for enrollment capacity waivers. Further guidance in this regard is under development and will be issued as soon as possible.

I. Compliance With Rehabilitation Act of 1973 (§§ 422.502(h) and 422.110(c))

Sections 422.502(h) and 422.110(c) specify several anti-discrimination statutes with which an M+C organization must comply, including the Civil Rights Act of 1964, Age Discrimination Act of 1975, and The Americans with Disabilities Act.

Comment: One commenter noted that the Rehabilitation Act of 1973 had been inadvertently omitted from the lists of applicable anti-discrimination statutes.

Response: We agree with the commenter and will add the Rehabilitation Act of 1973 to the required statutes listed under §§ 422.502(h) and 422.110(c).

III. Changes to the M+C Regulations

For the convenience of the reader, listed below are all changes to the M+C regulations that are set forth in this final rule:

- Section 422.60(a) has been revised to clarify that an individual enrolled in an M+C plan has a right to a special election period under any of the circumstances described in § 422.62(b)(1) through (b)(4). Thus, an individual enrolled in an M+C plan that withdraws or is terminated from the M+C program has an opportunity for a special election period among other M+C plans in the affected area.
- In §§ 422.110(c) and 422.502(h)(iii), we have added the Rehabilitation Act of 1973 to the list of anti-discrimination laws with which an M+C organization must comply.
- We have revised § 422.111(d) to specify that for rule changes that will become effective on January 1 of each year, an M+C organization must notify enrollees by October 15 of the previous year. The existing 30-day notification rule still applies for midyear changes.
- We have revised § 422.112(a)(4) and (b)(1) through (b)(3) to eliminate the requirement that a treatment plan may be prepared and updated only by a primary care provider (PCP) and to clarify how and when care is coordinated.
- We have deleted § 422.112(a)(5), which set forth separate notification requirements for the involuntary termination of plans and specialists.
- We have revised § 422.112(b)(5)(i) to specify that an organization must make a ''best-effort'' attempt to conduct required initial assessments, including following up on unsuccessful attempts to contact an enrollee.
- We have made revisions throughout §§ 422.202 and 422.204 to limiting the applicability of the provider participation requirements to physicians.
- Under § 422.202(a)(1), we have adopted a less expansive interpretation of what constitute participation rules, basically limiting the notification requirements associated with participation rules to policies directly related to participation decisions.
- Section 422.204(c) has been revised to indicate that the availability of the provider appeals process applies only to cases involving suspension or termination of participation privileges, rather than including initial denials of an application to participate, and to clarify what information must be included in notifications of appeal rights.

IV. Collection of Information Requirements—Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), agencies are required to provide a 30-day notice in the **Federal Register** and solicit public comment when a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. To fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comments on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Therefore, we are soliciting public comment on each of these issues for the information collection requirement discussed below.

The following sections of this document contain revised information collection requirements:

Section 422.202 Participation Procedures

Section 422.202(a) requires an M+C organization that operates a coordinated care plan or network MSA plan to provide for the participation of

individual physicians, and the management and members of groups of physicians. To accomplish this, M+C plans must establish and maintain procedures set forth in this section and provide written notice of—(1) rules of participation including terms of payment, credentialing, and other rules directly related to participation decisions; (2) material changes in participation rules before the changes are put into effect; and (3) participation decisions that are adverse to physicians' participation.

The disclosure requirements associated with this section have been revised and the associated burden reduced by requiring that only contracting physicians and not all contracting individual health care professionals receive written notice of the streamlined disclosure requirements summarized above.

In the ''Collection of Information Requirements'' section of the June 26, 1998, interim final rule (63 FR 34967), we noted that we believed the above requirements are reasonable and customary business practices and the burden of meeting these requirements is exempt from the PRA as stipulated under 5 CFR 1320.3(b)(2). Therefore, we are retaining the 1 token hour of burden assigned to these requirements.

Section 422.204 Provider Credentialing and Provider Rights

Section 422.204(c)(1) requires an M+C organization that suspends or terminates an agreement under which the physician provides services to M+C plan enrollees must give the affected individual written notice of the reasons for the action, including, if relevant, the standards and profiling data used to evaluate the physician and the numbers and mix of physicians needed by the M+C organization, and the affected physician's right to appeal the action and the process and timing for requesting a hearing.

The disclosure requirements associated with this section have been revised and the associated burden reduced by requiring that only contracting physicians and not all contracting individual health care professionals receive written notice of the disclosure requirements summarized above.

In the ''Collection of Information Requirements'' section of the June 26, 1998, interim final rule, we estimated the burden associated with these requirements to be on average 10 hours per M+C organization on an annual basis. While the number of necessary disclosures has been reduced by requiring disclosures only to contracting physicians, the scope of the disclosure requirement has been expanded to include the disclosure, if relevant, of the standards and profiling data used to evaluate the physician and the numbers and mix of physicians needed by the M+C organization. Therefore, we are retaining the previous estimate of 10 hours of annual burden per M+C organization.

Section 422.204 (c)(3) requires an M+C organization that suspends or terminates a contract with a physician because of deficiencies in the quality of care to give written notice of that action to licensing or disciplinary bodies or to other appropriate authorities.

The disclosure requirements associated with this section have been revised and the associated burden reduced by requiring that only suspended or terminated physicians be reported by the M+C organization to the appropriate licensing bodies, disciplinary bodies, or other appropriate authorities.

In the ''Collection of Information Requirements'' section of the June 26, 1998, interim final rule, we estimated that on average the annual burden associated with this requirement to be 2.25 hours per M+C organization. While the number of necessary disclosures has been reduced by requiring disclosures related only to contracting physicians, as previously noted, we have no exact data available to estimate how often this situation might occur. Therefore, we are retaining the previous estimated average burden of 2.25 hours per M+C organization.

We have submitted a copy of this final rule to OMB for its review of the revised information collection requirements in §§ 422.202 and 422.204. These revised requirements are not effective until they have been approved by OMB.

If you have any comments on any of these information collection and record keeping requirements, please mail the original and 3 copies within 30 days of this publication date directly to the following:

Health Care Financing Administration, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Room N2–14–13, 7500 Security Boulevard, Baltimore, MD 21244–1850. Attn: John Burke HCFA–1030-FC.

And,

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

V. Regulatory Impact Statement

We have examined the impact of this final rule as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, non-profit organizations, and governmental agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. Small entities that are providers will be affected by this rule, but we do not expect that effect to be of an economically significant nature.

The Unfunded Mandate Reform Act of 1995, in section 202, requires that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an annual expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million. This rule has no consequential effect on State, local, or tribal governments. The impact on the private sector is well below the threshold.

Section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis for any rule that may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

Summary of the Proposed Rule

As discussed in detail above, this rule sets forth limited changes to the Medicare+Choice regulations published in our June 26, 1998 interim final rule (63 FR 34968). Those regulations implemented section 4001 of the Balanced Budget Act of 1997, which established the Medicare+Choice program. We note that we received a number of comments on the impact analysis contained in the June 26, 1998 interim final rule. Many of the commenters asserted that our analysis did not fully take into account the costs

associated with various aspects of the M+C regulations, including, for example, the quality standards and the provider participation procedures. One commenter asserted that the costs of discretionary provisions such as these would be between $1 and 2 million for an M+C organization with 35,000 enrollees. Other commenters acknowledged that it was difficult to quantify the costs of various facets of the M+C program, but expressed the belief that the new regulations would impose a significant and costly administrative burden on M+C organizations.

We recognize that greater quantification in our estimates of the impact of the M+C regulations on managed care organizations is desirable. We note, however, that only one commenter offered any financial estimate of the costs associated with the M+C provisions, and that estimate was completely unsubstantiated. Thus, we continue to solicit any quantitative data that can help to assess the overall costs of complying with the regulations, or the costs associated with any particular provisions.

At this time, we are in the process of developing a statistically-based model for evaluating the impact of managed care policies on M+C organizations; however, this model is likely to focus heavily on payment rates and risk adjustment methodology, rather than administrative burden. We intend to respond more fully to comments on the overall impact of the M+C program and its implementing regulations in the comprehensive final rule to be published later this year.

Again, this final rule makes only limited changes to the provisions set forth in our June 26, 1998 interim final rule. These changes include:

- Adoption of a less expansive interpretation of what constitute participation rules, basically limiting the notification requirements associated with participation rules to policies directly related to participation decisions.
- Limiting the applicability of the provider participation requirements to physicians.
- Clarifying that the availability of the provider appeals process applies only to cases involving suspension or termination of participation privileges, rather than including initial denials of an application to participate.
- Specifying that the requirement for an initial assessment within 90 days of enrollment may be considered met for patients who ''age in'' to a plan or who switch plans, but remain under the care of the same primary care provider. We also clarify that an M+C organization may choose the form of the initial assessment.
- Clarifying that individuals enrolled in an M+C plan that withdraws or is terminated from the M+C program have an opportunity for a special election period among other M+C plans in the affected area, effective July 1, 1998.
- Elimination of the separate notification requirements for the involuntary termination of specialists.
- Revising the coordination of care requirements to clarify how and when care is coordinated and not limit the coordination function to primary care providers.

For the most part, we do not believe that these changes will result in any significant changes in the economic impact of the M+C regulations. The reductions in the scope and applicability of the provider participation procedures are the only provisions that we believe have any potential for measurable impact. Although we do not expect the volume of provider appeals to result in substantial costs for M+C organizations, clearly, these changes can only reduce the associated costs. Similarly, we anticipate the that the changes concerning notification rules for involuntary terminations of specialists, as well as the clarifications regarding coordination of care policy and completion of the initial assessments, have the potential for only incremental cost implications. Thus, we believe that this final rule clearly does not constitute a major rule under Executive Order 12866 or as defined in Title 5, U.S. Code, section 804(2).

In accordance with Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 422

Health maintenance organizations (HMO), Medicare+Choice, Provider sponsored organizations (PSO).

42 CFR chapter IV part 422 is amended as set forth below.

PART 422—MEDICARE+CHOICE PROGRAM

1. The authority citation for part 422 continues to read as follows:

Authority: Secs. 1102, 1851 through 1857, 1859, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395w-21 through 1395w-27, and 1395hh).

2. In § 422.60, paragraph (a)(1) is revised to read as follows:

§ 422.60 Election process.

(a) *Acceptance of enrollees: General rule.* (1) Except for the limitations on enrollment in an M+C MSA plan provided by § 422.62(d)(1) and except as specified in paragraph (a)(2) of this section, each M+C organization must accept without restriction (except for an M+C RFB plan as provided by § 422.57) individuals who are eligible to elect an M+C plan that the M+C organization offers and who elect an M+C plan during initial coverage election periods under § 422.62(a)(1), annual election periods under § 422.62(a)(2), and under the circumstances described in § 422.62(b)(1) through (b)(4).

* * * * *

3. In § 422.110, paragraph (c) is revised to read as follows:

§ 422.110 Discrimination against beneficiaries prohibited.

* * * * *

(c) Plans are required to observe the provisions of the Civil Rights Act, Age Discrimination Act, Rehabilitation Act of 1973, and Americans with Disabilities Act (see § 422.502(h)).

4. In § 422.111, paragraph (d) is revised to read as follows:

§ 422.111 Disclosure requirements.

* * * * *

(d) *Changes in rules.* If an M+C organization intends to change its rules for an M+C plan, it must:

(1) Submit the changes for HCFA review under the procedures of § 422.80.

(2) For changes that take effect on January 1, notify all enrollees by the previous October 15.

(3) For all other changes, notify all enrollees at least 30 days before the intended effective date of the changes.

* * * * *

5. Section 422.112 is revised to read as follows:

§ 422.112 Access to services.

(a) *Rules for coordinated care plans and network M+C MSA plans.* An M+C organization that offers an M+C coordinated care plan or network M+C MSA plan may specify the networks of providers from whom enrollees may obtain services if the M+C organization ensures that all covered services, including additional or supplemental services contracted for by (or on behalf of) the Medicare enrollee, are available and accessible under the plan. To accomplish this, the M+C organization must meet the following requirements:

(1) *Provider network.* Maintain and monitor a network of appropriate providers that is supported by written agreements and is sufficient to provide adequate access to covered services to meet the needs of the population served. These providers are typically utilized in

the network as primary care providers (PCPs), specialists, hospitals, skilled nursing facilities, home health agencies, ambulatory clinics, and other providers.

(2) *PCP panel.* Establish a panel of PCPs from which the enrollee may select a PCP.

(3) *Specialty care.* Provide or arrange for necessary specialty care, and in particular give women enrollees the option of direct access to a women's health specialist within the network for women's routine and preventive health care services provided as basic benefits (as defined in § 422.2), notwithstanding that the M+C organization maintains a PCP or some other means for continuity of care.

(4) *Serious medical conditions.* Ensure that for each plan, the M+C organization has in effect HCFA-approved procedures that enable the M+C organization, through appropriate health care professionals, to—

(i) Identify individuals with complex or serious medical conditions;

(ii) Assess those conditions, and use medical procedures to diagnose and monitor them on an ongoing basis; and

(iii) Establish and implement a treatment plan that—

(A) Is appropriate to those conditions;

(B) Includes an adequate number of direct access visits to specialists consistent with the treatment plan;

(C) Is time-specific and updated periodically; and

(D) Ensures adequate coordination of care among providers.

(5) *Service area expansion.* If seeking a service area expansion for an M+C plan, demonstrate that the number and type of providers available to plan enrollees are sufficient to meet projected needs of the population to be served.

(6) *Credentialed providers.* Demonstrate to HCFA that its providers in an M+C plan are credentialed through the process set forth at § 422.204(a).

(7) *Written standards.* Establish written standards for the following:

(i) Timeliness of access to care and member services that meet or exceed standards established by HCFA. Timely access to care and member services within a plan's provider network must be continuously monitored to ensure compliance with these standards, and the M+C organization must take corrective action as necessary.

(ii) Policies and procedures (coverage rules, practice guidelines, payment policies, and utilization management) that allow for individual medical necessity determinations.

(iii) Provider consideration of beneficiary input into the provider's proposed treatment plan.

(8) *Hours of operation.* Ensure that—

(i) The hours of operation of its M+C plan providers are convenient to the population served under the plan and do not discriminate against Medicare enrollees; and

(ii) Plan services are available 24 hours a day, 7 days a week, when medically necessary.

(9) *Cultural considerations.* (i) Ensure that services are provided in a culturally competent manner to all enrollees, including those with limited English proficiency or reading skills, diverse cultural and ethnic backgrounds, and physical or mental disabilities.

(ii) Provide coverage for emergency and urgent care services in accordance with paragraph (c) of this section.

(b) *Rules for all M+C organizations to ensure continuity of care.* The M+C organization must ensure continuity of care and integration of services through arrangements that include, but are not limited to the following—

(1) Policies that specify under what circumstances services are coordinated and the methods for coordination;

(2) Offering to provide each enrollee with an ongoing source of primary care and providing a primary care source to each enrollee who accepts the offer;

(3) Programs for coordination of plan services with community and social services generally available through contracting or noncontracting providers in the area served by the M+C plan, including nursing home and community-based services; and

(4) Procedures to ensure that the M+C organization and its provider network have the information required for effective and continuous patient care and quality review, including procedures to ensure that—

(i) The M+C organization makes a ''best-effort'' attempt to conduct an initial assessment of each enrollee's health care needs, including following up on unsuccessful attempts to contact an enrollee, within 90 days of the effective date of enrollment;

(ii) Each provider, supplier, and practitioner furnishing services to enrollees maintains an enrollee health record in accordance with standards established by the M+C organization, taking into account professional standards; and

(iii) There is appropriate and confidential exchange of information among provider network components.

(5) Procedures to ensure that enrollees are informed of specific health care needs that require follow-up and receive, as appropriate, training in self-care and other measures they may take to promote their own health; and

(6) Systems to address barriers to enrollee compliance with prescribed treatments or regimens.

(c) *Special rules for all M+C organizations for emergency and urgently needed services*—(1) *Coverage.* The M+C organization covers emergency and urgently needed services—

(i) Regardless of whether the services are obtained within or outside the M+C organization; and

(ii) Without required prior authorization.

(2) *Financial responsibility.* The M+C organization may not deny payment for a condition—

(i) That is an emergency medical condition as defined in § 422.2; or

(ii) For which a plan provider or other M+C organization representative instructs an enrollee to seek emergency services within or outside the plan.

(3) *Stabilized condition.* The physician treating the enrollee must decide when the enrollee may be considered stabilized for transfer or discharge, and that decision is binding on the M+C organization.

(4) *Limits on charges to enrollees.* For emergency services obtained outside the M+C plan's provider network, the M+C organization may not charge the enrollee more than $50 or what it would charge the enrollee if he or she obtained the services through the M+C organization, whichever is less.

6. Section 422.202 is revised to read as follows:

§ 422.202 Participation procedures.

(a) *Notice and appeal rights.* An M+C organization that operates a coordinated care plan or network MSA plan must provide for the participation of individual physicians, and the management and members of groups of physicians, through reasonable procedures that include the following:

(1) Written notice of rules of participation including terms of payment, credentialing, and other rules directly related to participation decisions.

(2) Written notice of material changes in participation rules before the changes are put into effect.

(3) Written notice of participation decisions that are adverse to physicians.

(4) A process for appealing adverse participation decisions, including the right of physicians to present information and their views on the decision. In the case of a termination or suspension of a provider contract by the M+C organization, this process must conform to the rules in § 422.204(c).

(b) *Consultation.* The M+C organization must consult with the

physicians who have agreed to provide services under an M+C plan offered by the organization, regarding the organization's medical policy, quality assurance program, and medical management procedures and ensure that the following standards are met:

(1) Practice guidelines and utilization management guidelines—

(i) Are based on reasonable medical evidence or a consensus of health care professionals in the particular field;

(ii) Consider the needs of the enrolled population;

(iii) Are developed in consultation with contracting physicians; and

(iv) Are reviewed and updated periodically.

(2) The guidelines are communicated to providers and, as appropriate, to enrollees.

(3) Decisions with respect to utilization management, enrollee education, coverage of services, and other areas in which the guidelines apply are consistent with the guidelines.

(c) An M+C organization that operates an M+C plan through subcontracted physician groups must provide that the participation procedures in this section apply equally to physicians within those subcontracted groups.

7. In § 422.204, paragraph (c) is revised to read as follows:

§ 422.204 Provider credentialing and provider rights.

* * * * *

(c) *Suspension or termination of contract.* An M+C organization that operates a coordinated care plan or network MSA plan providing benefits through contracting providers must meet the following requirements:

(1) *Notice to physician.* An M+C organization that suspends or terminates an agreement under which the physician provides services to M+C plan enrollees must give the affected individual written notice of the following:

(i) The reasons for the action, including, if relevant, the standards and profiling data used to evaluate the physician and the numbers and mix of physicians needed by the M+C organization.

(ii) The affected physician's right to appeal the action and the process and timing for requesting a hearing.

(2) *Composition of hearing panel.* The M+C organization must ensure that the majority of the hearing panel members are peers of the affected physician.

(3) *Notice to licensing or disciplinary bodies.* An M+C organization that suspends or terminates a contract with a physician because of deficiencies in the quality of care must give written notice of that action to licensing or disciplinary bodies or to other appropriate authorities.

(4) *Timeframes.* An M+C organization and a contracting provider must provide at least 60 days written notice to each other before terminating the contract without cause.

8. In § 422.502, paragraph (h)(1) is revised to read as follows:

§ 422.502 Contract provisions.

* * * * *

(h) *Requirements of other laws and regulations.* (1) The M+C organization agrees to comply with—

(i) Title VI of the Civil Rights Act of 1964 as implemented by regulations at 45 CFR part 84;

(ii) The Age Discrimination Act of 1975 as implemented by regulations at 45 CFR part 91;

(iii) The Rehabilitation Act of 1973;

(iv) The Americans With Disabilities Act;

(v) Other laws applicable to recipients of Federal funds; and

(vi) All other applicable laws and rules.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 29, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Approved: February 10, 1999.

Donna E. Shalala,

Secretary.

[FR Doc. 99–3751 Filed 2–11–99; 11:31 am]

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Federal Register

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February 17, 1999

Part V

Department of Education

Adult Education and Family Literacy Act; Workforce Investment Act of 1998; Carl D. Perkins Vocational and Technical Educational Act of 1998; Notices of Request for Public Comment

DEPARTMENT OF EDUCATION

Adult Education and Family Literacy Act; Workforce Investment Act of 1998

AGENCY: Office of Vocational and Adult Education, Department of Education.

ACTION: Notice of request for public comment.

SUMMARY: The Secretary of Education invites written comments and recommendations regarding the implementation of titles I, II, and V of the Workforce Investment Act of 1998 (WIA) (Pub. L. 105–220, enacted August 7, 1998), as they pertain to the Adult Education and Family Literacy Act.

DATES: Comments received on or before April 5, 1999, will be considered in the development of guidance and any regulations that may be necessary, as well as the overall implementation strategy.

ADDRESSES: Written comments should be addressed to Patricia W. McNeil, Assistant Secretary for Vocational and Adult Education, U.S. Department of Education, Room 4090, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, DC 20202–2645. Comments may be submitted electronically to *dael@inet.ed.gov.* You must include the term ''FR Notice'' in the subject line of your electronic message. The receipt of comments transmitted electronically will be acknowledged. Commenters wishing acknowledgment of the receipt of comments transmitted by mail must submit them by certified mail, return receipt requested.

FOR FURTHER INFORMATION CONTACT: Carroll Towey, (202) 205–9791. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: Signed into law on August 7, 1998, the WIA reforms Federal employment, adult education, and vocational rehabilitation programs to promote creation of an integrated system of workforce investment activities for adults and youth.

Adult Education and Family Literacy Act

Adult education is an important part of this new workforce investment system. Title II of WIA, the Adult Education and Family Literacy Act (AEFLA), restructures and improves programs previously authorized by the Adult Education Act. To give States greater flexibility in administering the program, the several prescriptive administrative requirements and restrictions on the use of funds are eliminated. For example, the Adult Education Act, as amended prohibited States from expending more than 20 percent of the State allocation for high school equivalency programs, the new law eliminates this restriction.

AEFLA focuses on strengthening program quality by requiring States to give priority in awarding funds to local programs that are based on a solid foundation of research, address the diverse needs of adult learners, and utilize other effective practices and strategies. Factors the State must consider in awarding funds include whether the program provides learning in real life contexts, employs advances in technology, and is staffed by well-trained instructors, counselors, and administrators.

To promote continuous program improvement and to ensure optimal return on the Federal investment, AEFLA also establishes a State performance accountability system. Under this system, the Secretary and each State must reach agreement on annual levels of performance for a number of ''core indicators'' specified in the law:

- Demonstrated improvements in literacy skill levels in reading, writing, and speaking the English language, numeracy, problem solving, English language acquisition, and other literacy skills.
- Placement in, retention in, or completion of postsecondary education, training, unsubsidized employment or career advancement.
- Receipt of a secondary school diploma or its recognized equivalent.

States also use these ''core indicators'' to evaluate the performance of local grantees.

Title I of WIA

Title I of WIA authorizes employment training and other workforce investment activities that are administered at the State and local levels by workforce investment boards. These services must be provided through a one-stop delivery system that is established by each local board. The one-stop system also provides a means of accessing education and employment-related services available under eleven other Federal programs, including adult education and literacy programs funded by AEFLA. Entities that carry out programs authorized by AEFLA will participate in one-stop systems through memoranda of understanding negotiated with local workforce investment boards. The services provided under AEFLA through the one-stop systems must be consistent with AEFLA requirements.

Title V of WIA

Title V of WIA authorizes States to submit a single ''unified'' plan for two or more of fifteen Federal education and workforce investment programs. These programs include AEFLA, workforce investment activities authorized under title I of the WIA, postsecondary vocational education programs authorized under the Carl D. Perkins Vocational and Technical Education Act of 1998 (Pub. L. 105–332), (Perkins III), and, with the prior approval of the State legislature, secondary vocational education programs authorized under Perkins III the portion of the unified plan that covers each activity or program must meet all of the plan or application requirements specified in the original authorizing statute for that particular activity or program. Title V also authorizes the award of incentive grants to States that exceed agreed-upon performance levels for title I of WIA, AEFLA, and Perkins III.

Copies of the WIA are available on the website of the Office of Vocational and Adult Education at *http://www.ed.gov/offices/OVAE/AdultEd/InfoBoard/legis.html.* The text of the Conference Report on H.R. 1385 (the WIA) can also be found in the Congressional Record, July 29, 1998, pp. H6604–H6694.

Issues for Public Comment

The Secretary invites written comments and recommendations from interested members of the public regarding the implementation of AEFLA and the provisions of titles I and V of WIA that relate to AEFLA.

The Secretary is particularly interested in receiving comments and recommendations concerning the following topics:

1. How best to implement the performance accountability system described in section 212, including—

(A) Definitions for the core indicators of performance; and

(B) The establishment, revision, and reporting of eligible agency adjusted levels of performance for Fiscal Year 1999 and subsequent fiscal years.

2. The award of incentive grants to States that exceed the State adjusted levels of performance for title I workforce investment activities, AEFLA, and Perkins III (section 503 of WIA).

3. Procedures for the development and submission of State unified plans (section 501 of WIA).

4. The participation of entities receiving assistance under AEFLA in the planning, governance, operation, and funding of the one-stop delivery system described in title I of WIA.

Comments and recommendations are also welcome on other issues and concerns that should be addressed or clarified through guidance or regulations.

Under its Principles for Regulating, the Department of Education will regulate only when it improves the quality and equality of services to its customers—learners of all ages. The Department will regulate only when absolutely necessary, and then in the most flexible, most equitable, and least burdensome way possible. The Department will regulate if a demonstrated problem exists and cannot be resolved without regulation or if necessary to provide legally binding interpretation to resolve an ambiguity. The Department will not regulate if entities or situations to be regulated are so diverse that a uniform approach does more harm than good.

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Anyone also may view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G–Files/Announcements, Bulletins and Press Releases.

Additionally, in the future, this document, as well as other documents concerning the implementation of AEFLA will be available on the World Wide Web at the following site: *http://www.ed.gov/offices/OVAE/AdultEd/InfoBoard/legis.html.*

Note: The official version of this document is the document published in the **Federal Register**.

Dated: February 11, 1999.

Richard W. Riley,

Secretary of Education.

[FR Doc. 99–3877 Filed 2–16–99; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

Carl D. Perkins Vocational and Technical Education Act of 1998; Workforce Investment Act of 1998

AGENCY: Office of Vocational and Adult Education, Department of Education.

ACTION: Notice of request for public comment.

SUMMARY: The Secretary of Education invites written comments regarding the implementation of the Carl D. Perkins Vocational and Technical Education Act of 1998 (Pub. L. 105–332, enacted October 31, 1998) (Perkins III) and titles I and V of the Workforce Investment Act of 1998 (Pub. L. 105–220, enacted August 7, 1998), as they pertain to Perkins III.

DATES: Comments received on or before April 5, 1999 will be considered in the development of guidance and any regulations that may be necessary, as well as the overall implementation strategy.

ADDRESSES: Written comments should be addressed to Patricia W. McNeil, Assistant Secretary for Vocational and Adult Education, U.S. Department of Education, Room 4090 Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, DC 20202–2645. Comments may be submitted electronically to *dvte@inet.ed.gov*. You must include the term ''FR Notice'' in the subject line of your electronic message. The receipt of comments transmitted electronically will be acknowledged electronically. Commenters wishing acknowledgment of receipt of comments transmitted by mail must submit them by certified mail, return receipt requested.

FOR FURTHER INFORMATION CONTACT: Gisela Harkin, (202) 205–9037. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. Individuals with disabilities may obtain this document in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Carl D. Perkins Vocational and Technical Education Act of 1998

Signed into law on October 31, 1998, Perkins III restructures programs previously authorized by the Carl D. Perkins Vocational and Applied Technology Education Act, setting out a new vision of vocational and technical education for the 21st century. Improving student achievement and preparation for postsecondary education, further learning, and careers are the central goals of this new vision. Perkins III promotes reform and innovation in vocational and technical education to help ensure that all students acquire the skills and knowledge they need to meet challenging State academic standards and industry-recognized skill standards, and to prepare for postsecondary education, further learning, and a wide range of career opportunities. Implementation of Perkins III promises to make vocational and technical education an integral part of State and local efforts to reform secondary schools and improve postsecondary education.

The new law focuses the Federal investment in vocational and technical education on high-quality programs that integrate academic and vocational education; promote student attainment of challenging academic and vocational and technical standards; provide students with strong experience in, and understanding of all aspects of an industry; address the needs of individuals who are members of special populations; involve parents and employers; and provide strong linkages between secondary and postsecondary education.

Programs must also develop, improve, or expand the use of technology in vocational and technical education, such as by providing training in the use of technology to educational personnel, preparing students for careers in the high technology and telecommunications fields, and by working with businesses in high technology industries to offer internships and mentoring programs for students. To enhance the quality of instruction in vocational and technical education, Perkins III requires local programs to provide comprehensive professional development opportunities for teachers, counselors, and administrators. These opportunities may include workplace internships that provide teachers with business experience, training in effective teaching skills, programs that help teachers and other personnel stay current with all aspects of an industry, and other activities.

Perkins III also eliminates a number of prescriptive administrative requirements and restrictions on the use of funds in order to give States, school districts, and postsecondary institutions greater flexibility to design services and activities that meet the needs of their students.

To promote continuous program improvement, as well as to ensure optimal return on the Federal investment, Perkins III creates a State performance accountability system. Under this system, the Secretary and each State reach agreement on annual levels of performance for a number of ''core indicators'' specified in the law:

- Student attainment of challenging State-established academic, and vocational and technical, skill proficiencies.
- Student attainment of a secondary school diploma or its recognized equivalent, a proficiency credential in conjunction with a secondary school diploma, or a postsecondary degree or credential.
- Placement in, retention, and completion of, postsecondary education or advanced training, placement in military service, or placement or retention in employment.
- Student participation in, and completion of, vocational and technical education programs that lead to nontraditional training and employment.

States also use these ''core indicators'' to evaluate the performance of local grantees.

Title II of the Act reauthorizes the Tech-Prep Education State grant program, an important catalyst for secondary school reform and postsecondary education improvement efforts. Tech-prep programs prepare students for careers in high-skill fields or further education by integrating academic and vocational and technical learning in a sequential course of study that includes a minimum of two years of secondary education and two years of postsecondary education or an apprenticeship program. Perkins III promotes the use of work-based learning and new technologies in tech-prep programs and encourages partnerships with business, labor organizations, and institutions of higher education that award baccalaureate degrees. States must give special consideration in awarding funds to tech-prep programs that provide education and training for employment in industries in which there are significant workforce shortages, including the information technology industry.

Title I of the Workforce Investment Act of 1998 (WIA)

Title I of the WIA authorizes employment training and other workforce investment activities that are administered at the State and local level by workforce investment boards. These services must be provided through a one-stop delivery system that is established by each local board. The one-stop system also provides a means of accessing education and employment-related services available under eleven other Federal programs, including postsecondary vocational and technical education programs authorized by Perkins III. Entities that carry out postsecondary vocational and technical education programs funded by Perkins III will participate in one-stop systems through memoranda of understanding negotiated with local workforce investment boards. The services provided under Perkins III through the one-stop systems must be consistent with the Perkins III requirements.

Title V of the WIA

Title V of the WIA authorizes States to submit a single ''unified'' plan for two or more of fifteen Federal education and employment-related programs identified in the statute. Postsecondary vocational and technical education programs authorized under Perkins III are among the programs that may be included in the unified plan. Secondary vocational and technical education programs authorized under Perkins III also may be included in the unified plan with the prior approval of the State legislature. Other programs that may be incorporated in the unified plan include programs covered under the Adult Education and Family Literacy Act, workforce investment activities authorized by Title I of WIA, and activities authorized by title I of the Rehabilitation Act of 1973. The portion of the unified plan that covers each activity or program is subject to the requirements specified in the original authorizing statute for that particular activity or program. Title V also authorizes the award of incentive grants to States that exceed agreed-upon performance levels for title I of WIA, the Adult Education and Family Literacy Act, and Perkins III.

Copies of Perkins III and WIA are available on the website of the Office of Vocational and Adult Education at http://www.ed.gov/offices/OVAE/VocEd/InfoBoard/legis.html. The text of the Conference Report on H.R. 1853, the Carl D. Perkins Vocational and Technical Education Act of 1998 (Conference Report 105–800), can also be found in the Congressional Record, October 8, 1998, pp. H10032-H10048. The text of the Conference Report on H.R. 1385, Workforce Investment Act of 1998, can be found in the Congressional Record, July 29, 1998, pp. H6604–H6694.

Issues for Public Comment

The Secretary invites the public to submit written comments and recommendations regarding the implementation of Perkins III and the provisions of titles I and V of WIA that relate to Perkins III.

The Secretary is particularly interested in receiving comments and recommendations concerning the following topics:

1. How best to implement the performance accountability system described in section 113 of Perkins III for Fiscal Year 1999 and subsequent fiscal years, including—

(A) Definitions for the core indicators of performance;

(B) Criteria for identifying the students within a State for whom outcomes must be reported; and

(C) Procedures for establishing, revising, and reporting eligible agency adjusted levels of performance.

2. The award of incentive grants to States that exceed the State adjusted levels of performance for WIA Title I workforce investment activities, the Adult Education and Family Literacy Act, and Perkins III (section 503 of WIA).

3. Procedures for the development and submission of State unified plans (section 501 of WIA).

4. The participation of postsecondary vocational and technical education programs authorized by Perkins III in the planning, governance, operation, and funding of the one-stop delivery system described in Title I of WIA.

Comments and recommendations are also welcome on other issues and concerns that should be addressed or clarified through guidance or regulations.

Under its Principles for Regulating, the Department of Education will regulate only when it improves the quality and equality of services to its customers—learners of all ages. The Department will regulate only when absolutely necessary, and then in the most flexible, most equitable, and least burdensome way possible. The Department will regulate if a demonstrated problem exists and cannot be resolved without regulation or if necessary to provide legally binding interpretation to resolve an ambiguity. The Department will not regulate if

entities or situations to be regulated are so diverse that a uniform approach does more harm than good.

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Additionally, in the future, this document, as well as other documents concerning the implementation of Perkins III will be available on the World Wide Web at the following site: http://www.ed.gov/offices/OVAE/VocEd/InfoBoard/legis.html.

Note: The official version of this document is the document published in the **Federal Register**.

All comments submitted in response to this notice will be available for public inspection during and after the comment period in Room 4090, Mary E. Switzer Building, 300 C Street, SW., Washington, DC, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

Dated: February 11, 1999.

Richard W. Riley,

Secretary of Education.

[FR Doc. 99–3878 Filed 2–16–99; 8:45 am]

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